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### REPORT ON THE LEGISLATIVE AND OVERSIGHT ACTIVITIES

OF THE

### COMMITTEE ON WAYS AND MEANS

DURING THE

109TH CONGRESS



DECEMBER 22, 2006.—Committed to the Committee of the Whole House  
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## COMMITTEE ON WAYS AND MEANS

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## LETTER OF TRANSMITTAL

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U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
*Washington, DC, December 22, 2006.*

Hon. KAREN HAAS,  
*Office of the Clerk,*  
*House of Representatives, Washington, DC.*

DEAR MS. HAAS: I am herewith transmitting, pursuant to House Rule XI, clause 1(d), the report of the Committee on Ways and Means on its legislative and oversight activities during the 109th Congress.

Sincerely,

BILL THOMAS,  
*Chairman.*



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## FOREWORD

Clause 1(d) of Rule XI of the Rules of the House, regarding the rules of procedure for committees, contains a requirement that each committee prepare a report at the conclusion of each Congress summarizing its activities. The 104th Congress added subsections on legislative and oversight activities, including a summary comparison of oversight plans and eventual recommendations and actions. The full text of the Rule, as recodified in the 109th Congress, follows:

(d)(1) Each committee shall submit to the House not later than January 2 of each odd-numbered year a report on the activities of that committee under this rule and rule X during the Congress ending at noon on January 3 of such year.

(2) Such report shall include separate sections summarizing the legislative and oversight activities of that committee during that Congress.

(3) The oversight section of such report shall include a summary of the oversight plans submitted by the committee under clause 2(d) of rule X, a summary of the actions taken and recommendations made with respect to each such plan, a summary of any additional oversight activities undertaken by that committee, and any recommendations made or actions taken thereon.

(4) After an adjournment sine die of the last regular session of a Congress, the chairman of a committee may file an activities report under subparagraph (1) with the Clerk at any time and without approval of the committee, provided that

(A) a copy of the report has been available to each member of the committee for at least seven calendar days; and

(B) the report includes any supplemental, minority, or additional view submitted by a member of the committee.

The jurisdiction of the Committee on Ways and Means during the 109th Congress is provided in Rule X, clause 1(s), as follows:

(s) Committee on Ways and Means.

(1) Customs, collection districts, and ports of entry and delivery.

(2) Reciprocal trade agreements.

(3) Revenue measures generally.

(4) Revenue measures relating to the insular possessions.

(5) Bonded debt of the United States, subject to the last sentence of clause 4(f).

(VII)

## VIII

- (6) Deposit of public monies.
- (7) Transportation of dutiable goods.
- (8) Tax exempt foundations and charitable trusts.
- (9) National social security (except health care and facilities programs that are supported from general revenues as opposed to payroll deductions and except work incentive programs).

The general oversight responsibilities of committees are set forth in clause 2 of Rule X. The 104th Congress also added the requirement in clause 2 of Rule X that each standing committee submit its oversight plans for each Congress. The text of the Rule, as recodified in the 109th Congress, in pertinent part, follows:

2. (a) The various standing committees shall have general oversight responsibilities as provided in paragraph (b) in order to assist the House in

(1) its analysis, appraisal, and evaluation of

(A) the application, administration, execution, and effectiveness of Federal laws; and

(B) conditions and circumstances that may indicate the necessity or desirability of enacting new or additional legislation; and

(2) its formulation, consideration, and enactment of changes in Federal laws, and of such additional legislation as may be necessary or appropriate.

(b)(1) In order to determine whether laws and programs addressing subjects within the jurisdiction of a committee are being implemented and carried out in accordance with the intent of Congress and whether they should be continued, curtailed, or eliminated, each standing committee (other than the Committee on Appropriations) shall review and study on a continuing basis

(A) the application, administration, execution, and effectiveness of laws and programs addressing subjects within its jurisdiction;

(B) the organization and operation of the Federal agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within its jurisdiction;

(C) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within its jurisdiction (whether or not a bill or resolution has been introduced with respect thereto); and

(D) future research and forecasting on subjects within its jurisdiction.

(2) Each committee to which subparagraph (1) applies having more than 20 members shall establish an oversight subcommittee, or require its subcommittees to conduct oversight in their respective jurisdictions, to assist in carrying out its responsibilities under this clause. The establishment of an oversight subcommittee does not limit the responsibility of a subcommittee with legislative jurisdiction in carrying out its oversight responsibilities.



(c) Each standing committee shall review and study on a continuing basis the impact or probable impact of tax policies affecting subjects within its jurisdiction as described in clauses 1 and 3.

(d)(1) Not later than February 15 of the first session of a Congress, each standing committee shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plans for that Congress. Such plan shall be submitted simultaneously to the Committee on Government Reform and to the Committee on House Administration. In developing its plan each committee shall, to the maximum extent feasible—

(A) consult with other committees that have jurisdiction over the same or related laws, programs, or agencies within its jurisdiction with the objective of ensuring maximum coordination and cooperation among committees when conducting reviews of such laws, programs, or agencies and include in its plan an explanation of steps that have been or will be taken to ensure such coordination and cooperation;

(B) review specific problems with Federal rules, regulations, statutes, and court decisions that are ambiguous, arbitrary, or nonsensical, or that impose severe financial burdens on individuals;

(C) give priority consideration to including in its plan the review of those laws, programs, or agencies operating under permanent budget authority or permanent statutory authority; and

(D) have a view toward ensuring that all significant laws, programs, or agencies within its jurisdiction are subject to review every 10 years.

To carry out its work during the 109th Congress, the Committee on Ways and Means had six standing Subcommittees, as follows:

- Subcommittee on Trade;
- Subcommittee on Oversight;
- Subcommittee on Health;
- Subcommittee on Social Security;
- Subcommittee on Human Resources; and
- Subcommittee on Select Revenue Measures.

The membership of the six Subcommittees of the Committee on Ways and Means in the 109th Congress is as follows:

X

SUBCOMMITTEE ON TRADE

E. CLAY SHAW, JR., Florida, *Chairman*

WALLY HERGER, California	BENJAMIN L. CARDIN, Maryland
PHIL ENGLISH, Pennsylvania	SANDER M. LEVIN, Michigan
JIM NUSSLE, Iowa	WILLIAM J. JEFFERSON, Louisiana <sup>1</sup>
ROB PORTMAN, Ohio <sup>2</sup>	JOHN S. TANNER, Tennessee
JERRY WELLER, Illinois	JOHN B. LARSON, Connecticut
RON LEWIS, Kentucky	JIM McDERMOTT, Washington
MARK FOLEY, Florida <sup>3</sup>	
KEVIN BRADY, Texas	
THOMAS M. REYNOLDS, New York <sup>4</sup>	

SUBCOMMITTEE ON OVERSIGHT

JIM RAMSTAD, Minnesota, *Chairman*

ERIC CANTOR, Virginia	JOHN LEWIS, Georgia
BOB BEAUPREZ, Colorado	EARL POMEROY, North Dakota
THOMAS M. REYNOLDS, New York <sup>5</sup>	MICHAEL R. McNULTY, New York
JOHN LINDER, Georgia	JOHN S. TANNER, Tennessee
E. CLAY SHAW, JR., Florida	CHARLES B. RANGEL, New York
SAM JOHNSON, Texas	
ROB PORTMAN, Ohio <sup>6</sup>	
DEVIN NUNES, California <sup>7</sup>	
J.D. HAYWORTH, Arizona <sup>8</sup>	

SUBCOMMITTEE ON HEALTH

NANCY L. JOHNSON, Connecticut, *Chairman*

JIM McCRERY, Louisiana	FORTNEY PETE STARK, California
SAM JOHNSON, Texas	JOHN LEWIS, Georgia
DAVE CAMP, Michigan	LLOYD DOGGETT, Texas
JIM RAMSTAD, Minnesota	MIKE THOMPSON, California
PHIL ENGLISH, Pennsylvania	RAHM EMANUEL, Illinois
J.D. HAYWORTH, Arizona	
KENNY C. HULSHOF, Missouri	

SUBCOMMITTEE ON SOCIAL SECURITY

JIM McCRERY, Louisiana, *Chairman*

E. CLAY SHAW, JR., Florida	SANDER M. LEVIN, Michigan
SAM JOHNSON, Texas	EARL POMEROY, North Dakota
J.D. HAYWORTH, Arizona	XAVIER BECERRA, California
KENNY C. HULSHOF, Missouri	STEPHANIE TUBBS JONES, Ohio
RON LEWIS, Georgia	RICHARD E. NEAL, Massachusetts
KEVIN BRADY, Texas	
PAUL RYAN, Wisconsin	

SUBCOMMITTEE ON HUMAN RESOURCES

WALLY HERGER, California, *Chairman*

NANCY L. JOHNSON, Connecticut	JIM McDERMOTT, Washington
BOB BEAUPREZ, Colorado	BENJAMIN L. CARDIN, Maryland
MELISSA A. HART, Pennsylvania	FORTNEY PETE STARK, California
CHRIS CHOCOLA, Indiana <sup>9</sup>	XAVIER BECERRA, California
JIM McCRERY, Louisiana	RAHM EMANUEL, Illinois
DAVE CAMP, Michigan	
PHIL ENGLISH, Pennsylvania	
DEVIN NUNES, California <sup>10</sup>	

SUBCOMMITTEE ON SELECT REVENUE MEASURES

DAVE CAMP, Michigan, *Chairman*

JERRY WELLER, Illinois	MICHAEL R. McNULTY, New York
MARK FOLEY, Florida <sup>11</sup>	LLOYD DOGGETT, Texas
THOMAS M. REYNOLDS, New York	STEPHANIE TUBBS JONES, Ohio
ERIC CANTOR, Virginia	MIKE THOMPSON, California
JOHN LINDER, Georgia	JOHN B. LARSON, Connecticut
MELISSA A. HART, Pennsylvania	
CHRIS CHOCOLA, Indiana	

<sup>1</sup> Pursuant to H. Res. 872, removed June 16, 2006.

<sup>2</sup> Resigned April 29, 2005.

<sup>3</sup> Resigned September 29, 2006.

<sup>4</sup> Assigned to Subcommittee May 12, 2005.

<sup>5</sup> Reassigned May 12, 2005.

<sup>6</sup> Resigned April 29, 2005.

<sup>7</sup> Assigned to Subcommittee May 12, 2005.

<sup>8</sup> Assigned to Subcommittee May 12, 2005.

<sup>9</sup> Reassigned May 12, 2005.

<sup>10</sup> Assigned to Subcommittee May 12, 2005.

<sup>11</sup> Resigned September 29, 2006.

The Committee on Ways and Means submits its report on its legislative and oversight activities for the 109th Congress pursuant to the above stated provisions of the Rules of the House. Section I of the report describes the Committee's legislative activities, divided into six sections as follows: Legislative Review of Tax, Trust Fund, and Pension Issues; Legislative Review of Trade Issues; Legislative Review of Health Issues; Legislative Review of Social Security Issues; Legislative Review of Human Resources Issues; and Legislative Review of Debt Issues.

Section II of the report describes the Committee's oversight activities. It includes a copy of the Committee's Oversight Agenda, adopted in open session on February 2, 2005, along with a description of actions taken and recommendations made with respect to the oversight plan. The report then discusses additional Committee oversight activities, and any recommendations or actions taken as a result. Finally, the report includes four appendices with Committee information. Appendix I is an expanded discussion of the Jurisdiction of the Committee on Ways and Means along with a revised listing and explanation of blue slip resolutions and points of order under House Rule XXI 5(a). Appendix II is a brief Historical Note on the origins of the Committee; Appendix III is a Statistical Review of the Activities of the Committee on Ways and Means; and Appendix IV is a listing of the Chairmen and Membership of the Committee from the 1st–109th Congresses.



## Union Calendar No. 438

### REPORT ON THE LEGISLATIVE AND OVERSIGHT ACTIVITIES OF THE COMMITTEE ON WAYS AND MEANS DURING THE ONE HUNDRED NINTH CONGRESS

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DECEMBER 22, 2006.—Ordered to be printed

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Mr. THOMAS, from the Committee on Ways and Means,  
submitted the following

## R E P O R T

### I. Legislative Activity Review

#### A. LEGISLATIVE REVIEW OF TAX, TRUST FUND, AND PENSION ISSUES

##### 1. BILLS ENACTED INTO LAW DURING THE 109TH CONGRESS

###### *a. Tsunami Relief (P.L. 109–1)*

On January 6, 2005, Chairman Thomas and Ranking Member Charles Rangel cosponsored H.R. 241 to accelerate the income tax benefits for charitable cash contributions for the relief of victims of the December 26, 2004 Indian Ocean tsunami. H.R. 241 passed both the House and the Senate by unanimous consent on January 6, 2005. The President signed the bill into law on January 7, 2005 (P.L. 109–1).

H.R. 241 allowed taxpayers to deduct on their 2004 tax return donations made in January 2005 for the relief of victims affected by the December 26, 2004 Indian Ocean tsunami.

###### *b. Leaking Underground Storage Tank Trust Fund (P.L. 109–6)*

On March 14, 2005, Chairman Thomas introduced H.R. 1270 which proposed to extend the leaking underground storage tank trust fund financing rate. The trust fund is financed with an excise tax of 0.1 cent per gallon that is imposed on the sale of gasoline, diesel, and other motor fuels. This tax was set to expire on March 31, 2005. The bill proposed to extend the trust fund's financing through September 30, 2005. The bill passed the House on March 16, 2005 under suspension of the rules by a vote of 431–1. The bill passed the Senate without amendment, by Unanimous Consent, on March 17, 2005, and was signed by the President on March 31, 2005 (P.L. 109–6).

*c. FEMA Disaster Mitigation (P.L. 109–7)*

On March 7, 2005, Representative Mark Foley and Representative Bobby Jindal introduced H.R. 1134, which would prevent the Internal Revenue Service from taxing Americans who receive Federal Emergency Management Agency (FEMA) grants to take preventative measures against natural disasters. H.R. 1134 passed the House of Representatives by a voice vote on March 14, 2005. The Senate passed the bill, amended, by U.C. on April 13, 2005, and the House agreed to the Senate amendment by U.C. on April 14, 2005. The President signed the bill into law on April 15, 2005 (P.L. 109–7).

H.R. 1134 implemented the President’s budget proposal for mitigation grants. In general, the bill removed the tax on any payments made to or for the benefit of the owner of any property for hazard mitigation, giving taxpayers the assurance that they could accept assistance without higher taxes.

Taxpayers that receive disaster mitigation grants to improve their property are not permitted to increase the basis of their property due to the improvements made through the grants.

*d. Surface Transportation Extension Act of 2005 (P.L. 109–14)*

Representative Don Young introduced H.R. 2566, the “Surface Transportation Extension Act of 2005,” on May 24, 2005 to extend transportation-related programs funded by the Highway Trust Fund. The next day, the House passed the bill under suspension of the rules by voice vote. On May 26, 2005, the Senate passed the bill without amendment by unanimous consent. The President signed the bill into law on May 31, 2004 (P.L. 109–14).

The bill provided an extension of highway, highway safety, motor carrier safety, transit, and other programs funded by the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century (TEA–21). The tax-related provisions in the bill extended authorization of the use of the Highway Trust Fund, the Mass Transit Account, and the Aquatic Resources Trust Fund for obligations under TEA–21 before July 1, 2005 and extended the imposition of tax on the use of certain heavy vehicles through September 30, 2006.

*e. Surface Transportation Extension Act of 2005, Part II (P.L. 109–20)*

Representative Don Young introduced H.R. 3104, the “Surface Transportation Extension Act of 2005, Part II” on June 29, 2005 to extend certain transportation-related programs funded out of the Highway Trust Fund. The next day, the House passed the bill by U.C. and the Senate passed the bill without amendment by unanimous consent. The President signed the bill into law on July 1, 2005 (P.L. 109–20).

The bill extended highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century (TEA–21). The tax-related provisions in the bill extended authorization of the use of the Highway Trust Fund, the Mass Transit Account, and the Aquatic Resources Trust Fund for obligations under TEA–21 before July 20, 2005.

*f. Surface Transportation Extension Act of 2005, Part III (P.L. 109–35)*

Representative Don Young introduced H.R. 3332, the “Surface Transportation Extension Act of 2005, Part III,” on July 19, 2005 to extend certain transportation-related programs funded out of the Highway Trust Fund. The House passed the bill on July 19, 2005 by unanimous consent, as did the Senate later that day. The President signed the bill into law on July 20, 2005 (P.L. 109–35). The tax-related provisions extended authorization of the use of certain trust funds, as in Part II until July 21, 2005.

*g. Surface Transportation Extension Act of 2005, Part IV (P.L. 109–37)*

Representative Don Young introduced H.R. 3377, the “Surface Transportation Extension Act of 2005, Part IV,” on July 21, 2005 to extend certain transportation-related programs funded by the Highway Trust Fund. The House passed the bill that day by unanimous consent, as did the Senate later that day. The President signed the bill into law on July 22, 2005 (P.L. 109–37). The tax-related provisions extended authorization of the use of certain trust funds, as in Parts II and III until July 27, 2005.

*h. Surface Transportation Extension Act of 2005, Part V (P.L. 109–40)*

Representative Don Young introduced H.R. 3453, the “Surface Transportation Extension Act of 2005, Part V” on July 27, 2005 to extend certain transportation-related programs funded by the Highway Trust Fund. That day, the House and Senate both passed the bill by unanimous consent. The President signed the bill into law on July 28, 2005 (P.L. 109–40). The tax-related provisions extended authorization of the use of certain trust funds, as in Parts II, III and IV until July 30, 2005.

*i. Surface Transportation Extension Act of 2005, Part VI (P.L. 109–42)*

Representative Don Young introduced H.R. 3512, the “Surface Transportation Extension Act of 2005, Part VI,” on July 28, 2005 to extend certain transportation-related programs funded by the Highway Trust Fund. The next day, the House and Senate passed the bill by unanimous consent. The President signed the bill into law on July 30, 2005 (P.L. 109–42). The tax-related provisions extended authorization of the use of certain trust funds, as in Parts II, III and IV until August 15, 2005.

*j. Energy Policy Act of 2005 (P.L. 109–58)*

On April 12, 2005, Chairman Thomas introduced H.R. 1541, the “Enhanced Energy Infrastructure and Technology Tax Act of 2005.” The full Committee held a markup of the bill on April 13, 2005, ordered the bill favorably reported, as amended, by a vote of 26–11 (H. Rept. 109–45). The reported bill, H.R. 1541, was subsequently merged into H.R. 6, the “Energy Policy Act of 2005.” H.R. 6 passed the House on April 21, 2005 by a vote of 249–183. The Senate passed the bill, as amended, on June 28, 2005, by a vote of 85–12. The two chambers agreed to go to conference, and a Conference Agreement was reached on July 27, 2005 (H. Rept. 109–190). The

House passed the Conference Agreement of the bill on July 28, 2005 by a vote of 275–156. The Senate approved the Conference Agreement the following day by a vote of 74–26 and it was signed by the President on August 8, 2005.

The House-passed bill contained tax incentives to advance energy policy in a number of areas. These included energy infrastructure initiatives, miscellaneous energy tax incentives and alternative minimum tax relief provisions.

With respect to energy infrastructure initiatives, the House bill contained a number of tax incentives to encourage greater investment in needed energy infrastructure. For example, the bill provided for a reduced recovery period (15 years) for assets used in the distribution of natural gas. Similarly, the bill also reduced the recovery period for assets used in the transmission of electricity from 20 to 15 years. Other infrastructure incentives included a reform of nuclear decommissioning rules and revised amortization of pollution control devices.

With respect to miscellaneous energy tax incentive, the House bill included energy efficiency incentives such as a credit for installation of residential solar equipment, a credit for energy improvements to existing homes and advance lean burn vehicle tax credits.

With respect to alternative minimum tax relief, the bill included several provisions to reduce the effect of the alternative minimum tax, including relief for taxpayers claiming energy-related tax credits.

The Senate-passed bill, S. 10, contained fewer provisions related to energy infrastructure but did include numerous incentives for energy efficiency and for renewable energy. Most notably, the Senate passed bill included a provision expanding and extending for three years the Section 45 production tax credit for producing electricity from renewable energy sources (including wind, biomass, geothermal and others).

The Conference Agreement as agreed to by the House and Senate and as signed into law by the President adopted many House provisions. Title XIII contains the agreed to tax provisions which are summarized as follows:

Subtitle A of Title XIII of the Conference Agreement provides a number of incentives for investment in energy infrastructure and largely follows the House bill with certain exceptions. The Conference Agreement includes a new production tax credit for producing electricity from advanced nuclear power facilities. The Agreement also provides for a 2-year extension of the Section 45 renewable energy production tax credit (through December 31, 2007). This provision also modifies Section 45 to equalize the duration of the credit to 10 years for all qualifying sources of renewable energy.

Subtitle B of Title XIII of the Conference Agreement contains various provisions related to domestic fossil fuel security. These tax incentives include 50% expensing for qualifying expansions made to refinery facilities, a clarification to the recovery period for gas gathering pipelines, and a new business tax credit for producing fuel from coke or coke gas.

Subtitle C of Title XIII of the Conference Agreement provides several energy efficiency and energy conservation tax incentives. These incentives include a 30% tax credit for installation of solar



energy equipment businesses and in residences. The subtitle also includes a tax incentive for owners of energy efficient commercial buildings and for energy efficient new homes. The Conference Agreement also adopts, with modifications, the House provision which provides a tax credit for energy efficient improvements to existing homes.

Subtitle D of Title XIII of the Conference Agreement contains several motor vehicle and fuels incentives. These incentives include an alternative motor vehicle credit which offers a tax credit to the purchaser of a hybrid or lean burn diesel vehicle. Other incentives are offered for installation of alternative refueling property and for producing biodiesel. A new credit was also created for renewable diesel. The renewable diesel credit is available for producing a fuel from biomass via a process involving thermal depolymerization.

Subtitle E of Title XIII of the Conference Agreement included other additional tax incentives including an enhanced research and development credit for energy research, a National Academy of Sciences study and report and a recycling study.

The Conference Agreement, Subtitle F of Title XIII, contains several revenue raising provisions. These include a reinstatement of the Oil Spill Liability Trust Fund tax. The tax applies on April 1, 2007, or later, if the Secretary of the Treasury estimates that, as of the close of that quarter, the unobligated balance in the Oil Spill Liability Trust fund will be less than \$2 billion. Also, the Leaking Underground Storage Tank Trust (LUST) Fund tax was extended through September 30, 2011. The provision also clarifies that dyed fuel is subject to the LUST tax and without refund. Finally, there are provisions that modify the recapture rules for amortizable Section 197 intangibles and that clarify the tire excise tax.

*k. Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (P.L. 109-59)*

On March 1, 2005, Chairman Thomas introduced H.R. 996, the "Highway Reauthorization Tax Act of 2005." The bill was ordered favorably reported, as amended, out of the Committee on March 3, 2005 by voice vote (H. Rept. 109-13). The bill's provisions were incorporated into H.R. 3, the "Transportation Equity Act: A Legacy for Users." H.R. 3 passed the House on March 10, 2005 by a vote of 417-9. The Senate passed H.R. 3, as amended, by a vote of 89-11. The Conference Report for the renamed bill, the "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005," was filed on July 28, 2005 (H. Rept. 109-203), and passed the House and the Senate the next day by votes of 412-8 and 91-4, respectively.

In general, the revenue provisions of the "Transportation Equity Act: A Legacy for Users" as passed by the House would have extended the Highway Trust Fund expenditure authority and related expiring excise taxes.

The excise taxes are imposed to finance the Federal Highway Trust Fund program. These taxes are highway motor fuels taxes (on gasoline, diesel fuel, kerosene, and special motor fuels), a retail sales tax on heavy highway vehicles, a manufacturers' excise tax on heavy vehicle tires, and an annual use tax on heavy vehicles.

The excise tax rates on highway motor fuels are 18.3 cents per gallon for gasoline, 24.3 cents per gallon for diesel fuel and ker-

osene, and 18.3 cents per gallon for special motor fuels. With the exception of 4.3 cents per gallon of these Highway Trust Fund fuels tax rates, all of these taxes were scheduled to expire after September 30, 2005. The bill proposed to extend these taxes through September 30, 2011.

The Highway Trust Fund also receives revenues from a 12-percent excise tax imposed on the first retail sale of heavy highway vehicles, tractors, and trailers (generally, trucks having a gross vehicle weight in excess of 33,000 pounds and trailers having such a weight in excess of 26,000 pounds); an excise tax imposed at graduated rates on highway tires weighing more than 40 pounds; and an annual use tax imposed on highway vehicles having a taxable gross weight of 55,000 pounds or more. The maximum rate for this tax is \$550 per year, imposed on vehicles having a taxable gross weight over 75,000 pounds. These taxes were scheduled to expire on September 30, 2005. The bill proposed to extend these taxes through September 30, 2011.

Under present law, most of the highway motor fuels excise tax revenues and the non-fuel excise tax revenues discussed above are dedicated to the Highway Trust Fund. Expenditures from this Fund were authorized (subject to appropriations) through May 30, 2005. The bill proposed to extend the Highway Trust Fund expenditure authority through September 30, 2009.

A separate Mass Transit Account exists within the Highway Trust Fund. Expenditures from the Account were authorized (subject to appropriations) through May 30, 2005. The bill proposed to extend the Account expenditure authority through September 30, 2009.

The bill proposed to extend a special enforcement provision, the "Basso rule," which prevents expenditure of Highway Trust Fund monies for purposes not authorized by the Internal Revenue Code. If such unapproved expenditures occur, no further excise tax receipts would be transferred to the Highway Trust Fund. Rather, the tax receipts will be retained in the General Fund.

The Aquatic Resources Trust Fund (consisting of the Sport Fish Restoration Account and the Boat Safety Account) is funded by a portion of the receipts from the excise tax imposed on motorboat fuel taxes and small-engine fuel taxes. Most of these funds are first deposited into the Highway Trust Fund before being transferred to the Aquatic Resource Trust Fund. However, a portion of these funds are retained by the General Fund. Transfers from the Highway Trust Fund to the Aquatic Resources Trust Fund were authorized through September 30, 2005. Expenditures from the Boat Safety Account were authorized (subject to appropriations) through May 30, 2005. The bill proposed to authorize Highway Trust Fund transfers to the Aquatic Resources Trust Fund through September 30, 2009, extend the Boat Safety Account expenditure authority through September 30, 2009, and eliminate the General Fund retention of motorboat fuel taxes and small-engine fuel taxes for taxes imposed after September 30, 2005.

Two highway-related technical corrections were also included in the House-passed bill. Two provisions enacted in the American Jobs Creation Act of 2004 (P.L. 108-357) related to highway funding required technical correction. One correction was a conforming amendment to the Volumetric Ethanol Excise Tax Credit provision.

The other correction clarified that the rate for jet fuel used in non-commercial aviation is 4.3 cents per gallon and that users of aviation fuel in commercial aviation must register with the IRS in order for the 4.3-cents-per-gallon rate to apply.

The Conference Agreement included many of the provisions included in the House-passed bill and added several others, most of which were incorporated from the Senate-passed transportation bill. The revenue provisions of the Conference Agreement extended expenditure authority from the Highway Trust Fund and Aquatic Resources Trust Fund through September 30, 2009. The related expiring excise taxes that finance the trust fund were extended through September 30, 2011. The Conference Agreement also required that unfunded highway authorizations exceed projected net Highway Trust Fund tax receipts for the 48-month period beginning at the close of each fiscal year.

The Conference Agreement also modified the gas guzzler tax (IRC Section 4064). This provision exempts limousines over 6,000 pounds unloaded gross vehicle weight from the gas guzzler tax. It specifies that tractors weighing 19,500 pounds gross vehicle weight or less with a gross combined weight of 33,000 pounds or less are exempt from the 12-percent excise tax on heavy highway vehicles. The Conference Agreement expanded the ethanol excise tax credit to include other alternative fuels that displace conventional petroleum products. Alternative fuels now include natural gas, liquid petroleum gas, P Series fuels, diesel from coal, and liquid hydrocarbons derived from biomass. The Conference Agreement also increased the tax on alternative fuels to the same level of taxes applied to gasoline and diesel. Alternative fuels are entitled to a tax credit equal to 50 cents per gallon.

The Conference Agreement eliminated the Boat Safety Account and transforms the Sport Fish Restoration Account into the Sport Fish Restoration and Boating Trust Fund. It repealed the harbor maintenance tax on exports and caps the 10-percent excise tax on fishing rods at \$10.

The Agreement repealed the requirement that crop-dusters receive consent from farmers to apply for refunds and clarifies that travel to and from a farm is exempt use. This provision also extends the exemption of helicopters used in timber operations from the ticket and flight segment taxes to fixed-wing aircraft. The Conference Agreement expanded the definition of a rural airport to include airports not connected by paved roads to another airport and having fewer than 100,000 passengers on flights of at least 100 miles per year. The Conference Agreement also exempts from ticket taxes, transportation by a seaplane, with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur do not receive financial assistance from the Airport and Airways Trust Fund. For purposes of the fuel taxes, transportation by seaplane is treated as noncommercial aviation. Sightseeing flights were also exempted from the airline ticket tax.

The Conference Agreement repealed the special occupational taxes relating to alcoholic beverages. It provided an income tax credit for distilled spirits wholesalers and for distilled spirits in control of State bailment warehouses for costs of carrying federal excise tax on bottled distilled spirits in inventory. The Conference

Agreement allowed small distillers, brewers and winemakers to file excise taxes quarterly instead of every other week. Also, the excise tax on firearms was repealed for persons who manufacture, produce, and import less than 50 firearms, pistols, and revolvers during a calendar year.

Several studies were commissioned by the Conference Agreement to examine ways to improve and reform collections of excise taxes. Also included is the establishment of a bipartisan Motor Fuel Tax Enforcement Advisory Commission to review fuel tax collections and to submit recommendations for improving enforcement of fuel tax collections and the establishment of a National Surface Transportation Infrastructure Financing Commission to report on the sufficiency of Highway Trust Fund revenues and alternative approaches for generating trust fund revenues. The Conference Agreement also directed the IRS to report on new technologies that can be used to reduce diesel fuel tax evasion, including the use of chemical markers and to conduct a study regarding the amount of fuel used by trucks to operate equipment that is not related to the transportation function of the vehicle. The latter study will propose options for exempting this fuel from tax, if administratively feasible.

The Conference Agreement provided \$15 billion of tax-exempt bond financing authority to finance highway projects and rail-truck transfer facilities. The Conference Agreement also allowed the North Carolina Railroad Company to convert from a real estate investment trust to a state-owned tax exempt entity without incurring tax on built-in gains.

The Conference Agreement extended the provision that prevents expenditure of Highway Trust Fund monies for purposes not authorized by the Internal Revenue Code. It also added a similar provision to address the LUST Trust Fund. If unauthorized expenditures from the LUST Trust Fund occur, no further excise tax receipts would be transferred to the LUST Trust Fund.

The Conference Agreement included seven provisions to combat fuel fraud and increase Highway Trust Fund receipts. It taxed all removals of kerosene (other than directly into an aircraft) at 24.4 cents per gallon. If kerosene that is taxed at 24.4 cents is used for aviation, then a refund is available to reduce the tax to the applicable aviation fuel rate. The Secretary of Treasury will transfer from the Highway Trust Fund to the Airport and Airway Trust Fund amounts based on the aviation use of kerosene. Under the Conference Agreement, farmers must buy clear fuel and apply for refunds of tax paid on fuel used for farming. Farmers may continue to buy dyed exempt fuel. The Conference Agreement required credit card companies to register with the IRS and be the party responsible for claiming refunds if a qualified exempt entity used a credit card to purchase the fuel. Reregistration is required in the event of a change of ownership of a registered blender, pipeline operator, position holder, refiner, terminal operator and vessel operator. If the ownership changes, the new owners will require a new registration (except in case of publicly traded corporation). A \$10,000 penalty will be imposed on those who fail to apply for a new registration. The Department of Homeland Security and the Department of Treasury are to transmit information pertaining to taxable fuels destined for importation into the United States to the IRS. The

Conference Agreement required ships and barges to register for tax-exempt bulk transfers of fuel. It also imposed a \$10,000 penalty for anyone who knowingly sells diesel which does not comply with Environmental Protection Agency low-sulfur diesel regulations.

The two highway-related technical corrections from the House-passed bill are included in the Conference Agreement. A third technical correction was added to provide a conforming cross-reference with the “Transportation and Equity Act for the 21st Century” (P.L. 105–178).

*l. Katrina Emergency Tax Relief Act of 2005 (P.L. 109–73)*

On September 14, 2005, Representative Jim McCrery introduced H.R. 3768, the “Katrina Emergency Tax Relief Act of 2005,” to aid in the relief and recovery efforts pursuant to Hurricane Katrina. The next day, the House passed the bill under suspension of the rules by a voice vote. The Senate agreed to the bill with amendment later in the day. On September 21, 2005, the bill passed the House, as amended by the Senate, pursuant to House Resolution 454, by a vote of 422–0. The Senate subsequently agreed to the House amendment to the Senate amendment by unanimous consent. The President signed the legislation on September 23, 2005 (P.L. 109–73).

The Act included special rules for using retirement funds for relief relating to Hurricane Katrina, employment relief, charitable giving incentives, and other provisions to assist taxpayers affected by Hurricane Katrina. In general, those affected by the hurricane were defined by those located in the portion of the Hurricane Katrina disaster area determined by the President before September 14, 2005, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93–288) by reason of Hurricane Katrina. Some provisions applied only to the “core disaster area” which is defined as that portion of the Hurricane disaster area determined by the President to warrant individual or individual and public assistance. The Hurricane Katrina disaster area includes areas within southern Louisiana, southern Mississippi, and the southwestern portion of Alabama.

Title I of the “Katrina Emergency Tax Relief Act of 2005” provided for special rules for the use of retirement funds for relief related to Hurricane Katrina. In general, distributions from Individual Retirement Accounts and pensions are subject to a 10-percent penalty if they are made before a certain age. The penalty is intended to discourage individuals from withdrawing funds that are needed for retirement. To ease the financial burden faced by many families in the disaster area, the proposal allowed eligible individuals to withdraw a maximum of \$100,000 from their IRAs and pensions without paying the 10-percent penalty. Individuals eligible for the waiver may pay income tax on the distribution over three years. Income tax is not due if the distribution is repaid to the account within three years. The proposal also increased the limit on loans from pension plans from \$50,000 to \$100,000. To qualify for these provisions, an individual’s principal place of abode on August 28, 2005 must have been located in the Hurricane Katrina disaster area and the individual must have sustained an economic loss by reason of such hurricane. Title I also allowed for

the recontributions of withdrawals for home purchases cancelled due to Hurricane Katrina.

Title II provided for employment related relief. Employers are allowed to claim the Work Opportunity Tax Credit (WOTC) if they hire individuals from certain target groups who are considered to face barriers to employment. The credit generally equals 40 percent of the first \$6,000 of wages paid to the employee in the first year (i.e., the maximum credit is \$2,400). The bill temporarily creates a new target group under the WOTC, called Hurricane Katrina employees. The credit was available to small employers (i.e., an average of 200 or fewer employees in the taxable year) whose business was inoperable as a result of damage sustained by Hurricane Katrina.

In general, Title III changed certain rules regarding donations for charitable purposes. Individuals could deduct charitable donations up to 50 percent of their adjusted gross income. Deductions for charitable donations are further limited by the phase-out of itemized deductions. Under the bill, cash donations to charities were exempt from the 50-percent income limitation and the phase-out of itemized deductions if made before January 2006. Donations to supporting organizations and donor-advised funds did not qualify for this exclusion. Corporations may deduct charitable donations to charities up to 10 percent of their taxable income. The bill waives the 10-percent income limitation for cash donations related to Hurricane Katrina relief efforts if the donations are made before January 2006. The bill sets the mileage reimbursement rate for charitable work at 70 percent of the standard business mileage rate (48.5 cents per mile) through December 31, 2006. If the individual is a volunteer and is reimbursed for the use of the personal vehicle, the proposal ensures that the individual does not have to pay income tax on the reimbursement. This provision is effective through December 31, 2006. C-corporations could deduct the cost of food inventory donations. The value of the deduction is equal to the lesser of two times the basis or basis plus one-half of the added-value. The proposal extends the current-law deduction for food donations to S-corporations, partnerships and sole proprietors through December 31, 2005. The bill also allows a special charitable deduction through the end of the 2005 calendar year for donations of educational books to public schools. Title III created a special tax deduction for individuals who provide rent-free housing to dislocated persons for at least 60 days. The deduction is \$500 for each dislocated person housed in the individual's principal residence (up to a maximum of \$2,000). The deduction can be claimed in either 2005 or 2006, but cannot be claimed in both years with respect to the same person.

Title IV included additional tax relief provisions. The bill ensured that individuals affected by the hurricane are not taxed on personal debt forgiven related to the hurricane, if the debt was discharged before January 1, 2007. Also, the bill waived the 10-percent and \$100 floors on the deduction for personal casualty losses attributable to Hurricane Katrina. The bill extended the January 3, 2006 deadline the IRS set as a result of Hurricane Katrina for filing tax returns and making tax payments until February 28, 2006. The bill waived the first-time homebuyer requirement for mortgage revenue bonds so that individuals whose homes were ren-

dered uninhabitable by Hurricane Katrina can qualify for these low-interest rate mortgages through 2007. In addition, the proposal provides that up to \$150,000 of the loan proceeds may be used to repair damaged homes. Insurance proceeds are not taxable if they are invested in replacement property within two years (with respect to damaged business property) or four years (with respect to damaged principal residences in Presidentially-declared disaster areas). The bill increased the reinvestment period to 5 years as long as property in the disaster area was involuntarily converted as a result of Hurricane Katrina and the replacement property is located within the disaster area. The bill allows individuals the option of using their 2004 income to calculate the child credit and the Earned Income Tax Credit on their 2005 tax returns. This special rule applies to individuals who were displaced from their principal residence by reason of Hurricane Katrina. Finally, the bill grants the Secretary of the Treasury authority to ensure that taxpayers do not lose tax benefits or experience a change in filing status in 2005 and 2006 due to temporary relocations by reason of Hurricane Katrina.

*m. Sportfishing and Recreational Boating Safety Act of 2005 (P.L. 109-74)*

On September 6, 2005, Representative Don Young introduced H.R. 3649, the "Sportfishing and Recreational Boating Safety Act of 2005." The bill extended authorization for recreational boating and boat safety expenditures, as well as enlarging authorized funding for the Coast Guard. The bill passed the House under suspension of the rules on September 13, 2005 by a vote of 401-1. On September 15, 2005, it passed the Senate by unanimous consent, with an amendment providing for technical corrections to other legislation. The House passed the bill as amended by the Senate on September 20, 2005. H.R. 3649 became Public Law 109-74 when it was signed by the President on September 29, 2005.

*n. Gulf Opportunity Zone Act of 2005 (P.L. 109-135)*

The Gulf Opportunity Zone Act of 2005. (H.R. 4440) was introduced by Representative Jim McCrery (R-LA) on December 6, 2005, passed the House by a vote of 414-4 on December 7, 2005, passed the Senate in amended form on December 15, 2005, and was subsequently passed by the House as amended by the Senate by unanimous consent on December 16, 2005, and signed by the President on December 22, 2005 (P.L. 109-135).

As introduced and passed by the House, the bill expanded tax relief for regions affected by Hurricane Katrina and provided additional relief and incentives to rebuild for regions affected by Hurricanes Rita and Wilma as well as Hurricane Katrina. For areas within the Gulf Opportunity (GO) Zone affected by Hurricane Katrina, the bill provided additional tax exempt bond financing allocations of \$2,500 per capita, allowed additional advance refunding of certain exempt bonds, authorized federal tax credit bonds and federally-guaranteed bonds to aid local governments facing financing difficulty because of tax base losses, provided special low income housing credit allocations, and made available bonus depreciation and expanded small business expensing limits for capital investment. The bill also allowed expensing of brownfields remedi-

ation (including petroleum contamination), site demolition and clean up costs. The bill expanded the rehabilitation tax credit, doubled the limit on reforestation cost expensing, allowed a special net operating loss (NOL) carry back for small timber growers and provided special NOL treatment for public utility casualty losses and carry back rules for deductions related to GO Zone property. The bill clarified the treatment of traveling expenses incurred away from home and would have designated certain public debt as “Gulf Coast Recovery Bonds.”

For taxpayers in areas affected by Hurricanes Rita and Wilma, the bill provided relief similar to what had earlier been extended for the relief of Katrina victims. Included were pension and retirement savings modifications providing greater access to withdrawals, employee retention tax incentives, suspension of income limits on charitable giving with regard to contributions for hurricane relief and suspension of casualty loss thresholds. Also included were administration relief provisions for filing and special procedures for claiming the Earned Income and refundable Child Credits.

The Senate amendment to H.R. 4440 modified a number of the House bill’s provisions, including eligibility standards related to low income housing credits and employee retention incentives. It also included an expanded New Markets Tax Credit, education tax incentives, a temporary exclusion for employer-provided housing in the GO Zone and a 30-percent employer credit for such housing. It extended a series of expiring tax provisions related to disclosure of return information and undercover operations. The amendment extending the law allowing combat pay to be included in income for the purposes of calculating the Earned Income Credit and modified the rules regarding suspension of interest and penalties when the IRS fails to contact the taxpayer. Many of the Senate modifications were preceded by related hurricane relief proposals included in S. 2020 as considered by the Senate earlier in the year.

The final version of H.R. 4440 allowed a tax credit for investment in “Gulf tax credit bonds.” For this purpose, a “Gulf tax credit bond” is defined as any bond: (1) that is issued by Alabama, Louisiana, or Mississippi after December 31, 2005, and before January 1, 2007; (2) 95 percent of the proceeds of which are used to refinance existing bonds or make loans to localities for such refinancing; and (3) the maturity of which does not exceed 2 years. The bill requires States issuing “Gulf tax credit bonds” to pledge matching amounts equal to the face amount of such bonds. The bill limits the amount of eligible “Gulf tax credit bonds” to \$200 billion for Louisiana, \$100 billion for Mississippi, and \$50 billion for Alabama.

H.R. 4440 as enacted also included technical corrections on tax legislation originally included in H.R. 3376.

*o. Tax Increase Prevention and Reconciliation Act of 2005 (P.L. 109-222)*

Chairman Thomas introduced H.R. 4297 on November 10, 2005 to provide for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 2006. The bill was ordered favorably reported by the Committee as amended as the “Tax Relief Extension Reconciliation Act of 2005” by a 24–15 vote on November 15,



2005 (H. Rept. 109–304). On December 8, 2005, the bill passed the House on a 234–197 vote.

Related legislation was introduced by Senator Grassley on November 16, 2005 as S. 2020. S. 2020 passed the Senate on November 18, 2005 by a vote of 64–33. The Conference Report on H.R. 4297 (H. Rept. 109–455) was filed on May 9, 2006, was agreed to by the House on May 10, 2006 by a recorded vote of 244–185, and was agreed to by the Senate on May 11, 2006 by a recorded vote of 54–44. It was signed by the President on May 17, 2006 (P.L. No. 109–222).

Title I of the bill as passed by the Committee and the House of Representatives would have extended certain expiring provisions through 2006 without modification. These provisions were the deduction for State and local sales taxes; the deduction for qualified tuition and related expenses; parity in the application of certain limits to mental health benefits; availability of Archer medical savings accounts; the welfare-to-work credit; authority to issue qualified zone academy bonds; the enhanced deduction for qualified computer donations; the exclusion of certain expenses of elementary and secondary school teachers from gross income; tax incentives for investment in the District of Columbia; the allowance for non-refundable personal credits to be applied against the alternative minimum tax; fifteen-year depreciation for leasehold and restaurant improvements; the suspension of the 100-percent net-income limitation on percentage depletion in the case of oil and gas from marginal wells; the Indian employment credit; and, accelerated depreciation for business property on Indian reservations. The bill would have also extended the possessions tax credit for American Samoa. The bill would have also extended the Work Opportunity Tax Credit through 2006 and expand eligible hires by increasing the age limit for food stamp recipients from 25 to 35. The credit for increasing research activities would have also been extended through 2006 as well. In addition to this extension, the provision would have enhanced the credit by increasing the value of the alternative incremental credit and by adding a new alternative simplified credit.

Title II of the bill would have extended certain provisions for 2 years. The saver's tax credit for eligible low-income individuals who make contributions to an IRA or qualified pension plan would have been extended through 2008. Through 2009, small businesses would be allowed to expense up to \$100,000 of investments in depreciable assets. The deduction phases out dollar-for-dollar to the extent the business's annual investments exceed \$400,000. Under the bill, taxpayers would be allowed to expense the costs incurred in cleaning up certain contaminated sites (brownfields) through 2009 including sites contaminated by petroleum products. The active financing exception from the immediate taxation on foreign subsidiaries of U.S. companies under Subpart F would be extended for 2 years. In addition to extending the active financing exception, the provision also provided a 3-year exception from Subpart F for certain cross-border payments of dividends, interest, rents, and royalties that are funded with active income that has not been repatriated. The bill would have extended for 2 years the preferential tax rates for long-term capital gains and dividends which will other expire after 2008.

Title III of included temporary simplifications of present law. It would have simplified the application of the active trade or business test to certain corporate distributions. Also, it would have treated environment cleanup settlement funds as governmentally owned (i.e., not subject to tax) if certain standards and requirements are met to encourage more companies to establish settlement funds devoted to environmental cleanup. It would have provided capital gains treatment for self-created musical works when these works are sold by the artist. It would have codified and extended the present IRS exemption of the Permanent University Fund from the tax-exempt bond arbitrage rules. The bill would have reduced the eligible weight threshold to elect tonnage taxation from 10,000 to 6,000 deadweight tons. Finally, the bill would have expanded eligibility for the qualified veterans' mortgage bond programs that certain States use to finance affordable mortgages for veterans by repealing the requirement that veterans must have served before 1977.

As enacted, Title I of the Conference Agreement on H.R. 4297 includes: (1) a 2-year extension of enhanced Section 179 expensing for small business (through 2009), (ii) a 2-year extension of reduced rates on capital gains and dividends (through 2010); (3) a 2-year extension of the Subpart F active financing exception (through 2008); and (4) enactment of the Subpart F controlled foreign corporation "look-through" rule for 5 years (through 2008).

Title II contains additional provisions that apply through December 31, 2010. The provisions are: (1) clarification of taxation of certain settlement funds; (2) modification of the active business definition under Section 355; (3) modification of certain States' authority to issue veterans' mortgage bonds; (4) capital gains treatment of certain self-created musical works; (5) modification of special arbitrage rule for certain funds; (6) amortization of expenses incurred in creating or acquiring music or music copyrights; (7) modification of effective date of disregard of certain capital expenditures for purposes of qualified small issue bonds; and (8) modification of treatment of loans to qualified continuing care facilities.

Title III contains alternative minimum tax relief provisions, including: (1) an increase in the alternative minimum tax exemption levels for 2006 to \$62,550 for joint filers and \$42,500 for single filers; and (2) the allowance of nonrefundable personal credits against regular and alternative minimum tax liability.

Title IV changes the timing of certain corporate estimated tax installment payments.

Title V contains revenue offset provisions, including: (1) application of earnings stripping rules to partners which are corporations; (2) reporting of interest on tax-exempt bonds; (3) 5-year amortization of geological and geophysical expenditures for certain major integrated oil companies; (4) application of Foreign Investment Real Property Tax Act (FIRPTA) to regulated investment companies; (5) treatment of distributions attributable to FIRPTA gains; (6) prevention of avoidance of tax on investments of foreign persons in U.S. real property through wash sale transactions; (7) denying application of Section 355 to distributions involving disqualified investment companies; (8) limits on loan and redemption requirements on pooled financing requirements; (9) requiring partial payments with submission of offers-in-compromise; (10) an increase in

the age of minor children whose unearned income is taxed as if parent's income; (11) imposition of withholding on certain payments made by government entities; (12) relaxation of 2006 limits on conversion to Roth IRAs; (13) repeal of Foreign Sales Corporation/Extra-Territorial Income (FSC/ETI) binding contract relief; (14) limiting wages attributable to domestic production taken into account in determining deduction for domestic production; (15) modification of exclusion for citizens living abroad; and (16) an excise tax on involvement of accommodation parties in tax shelter transactions.

*p. Heroes Earned Retirement Opportunities Act (P.L. 109–227)*

On April 6, 2005, Representative Virginia Foxx introduced H.R. 1499. Under the bill, combat pay which is otherwise excluded from gross income could be used to determine the eligibility of contributions to retirement savings plans. H.R. 1499 passed the House on May 23, 2005 by voice vote under suspension of the rules. On November 15, 2005, the bill was discharged by the Senate Finance Committee by unanimous consent and it passed the Senate with amendment to the effective date of the bill later that day. The House passed the bill as amended by the Senate with a further amendment (regarding certain contributions) on May 9, 2006. The Senate passed the bill as amended by the House on May 18, 2006, and the President signed the bill into law on May 29, 2006 (P.L. 109–227).

*q. Pension Protection Act of 2006 (P.L. 109–280)*

Majority Leader John Boehner (for himself, Chairman Bill Thomas, Chairman Howard P. “Buck” McKeon, Representative John Kline, and Representative Dave Camp) introduced H.R. 4 on July 28, 2006. The House passed the bill the same day by a vote of 279–131. H.R. 4 went on to pass the Senate on August 3, 2006 by a vote of 93–5. The President signed H.R. 4 into law on August 17, 2006 (P.L. 109–280). H.R. 4 reforms the single-employer and multiemployer pension funding rules, makes permanent certain retirement and saving incentives, and includes a number of new incentives for retirement savings.

H.R. 4 was preceded in the House by action on H.R. 2830, the “Pension Security and Transparency Act of 2005”. H.R. 2830 was introduced by Chairman Boehner of the House Committee on Education and the Workforce, Chairman Thomas and others on June 9, 2005 and referred to the Committee on Education and the Workforce and the Committee on Ways and Means. Education and the Workforce ordered the bill reported with amendments on June 30, 2005. Subsequently, Ways and Means marked up H.R. 2830 and ordered the bill reported as amended on November 9, 2005 by a recorded vote of 23–17. The Committees’ bills were combined in a single text considered by the House under a rule and the revised bill was passed by the House on December 15, 2005 by a vote of 294–132. The House appointed conferees on H.R. 2830 and the Senate amendment to the bill on March 8, 2006. The conferees did not come to an agreement, but many aspects of the House and Senate bills were modified and included in H.R. 4.

Like H.R. 4, H.R. 2830 included changes in funding requirements for single and multi-employer plans. In general, the bill would have

required single employer defined benefit plans to fund up to 100 percent of their pension liabilities under revised measurement standards and established new funding shortfall amortization rules. Multiemployer plans would also have been required to amortize shortfalls over a fifteen year period and would be subject to funding new improvement requirements based on the pensions' being endangered (between 65 and 80 percent funded) or critical (less than 65 percent funded). The bill also would have increased the maximum tax-deductible fund limit for multiemployer plans from 100 percent to 140 percent of current liability to encourage additional employer contributions during profitable years.

H.R. 2830 also would have clarified current law on hybrid pension plans by creating a uniform age discrimination standard for all defined benefit plans, improved notice and disclosure requirements for single and multiemployer plans, given employers the option of providing employees with access to professional investment advice and clarified the standards under which annuities can be offered. The bill would have allowed health plans to recover benefits paid out once the participant is reimbursed by a third party for the same expenses and allowed sponsors of certain 401(k) plans to modify investment options when a pension plan changes administrators or replaces existing investment options.

As reported by the Committee on Ways and Means, H.R. 2830 also included provisions to make pension and retirement savings provisions from the "Economic Growth and Tax Relief Reconciliation Act of 2001" (P.L. 107-16) permanent. Among other changes, it also would have made the Saver's Credit permanent and included proposals to enhance pension participation through automatic enrollment procedures. The bill as reported would have allowed combat pay to be counted when determining amounts which could be contributed to IRAs, permitted members of the National Guard and Reserves called to active duty to take distributions from retirement plans and accounts without paying the 10 percent early withdrawal penalty and eliminated the 10 percent penalty for participants in Deferred Retirement Option Plans (DROP plans). The bill would have allowed direct deposit of tax refunds into IRAs.

As reported by the Committee on Ways and Means, H.R. 2830 also included health care affordability provisions. It would have allowed creation of insurance products combining annuities and long-term care coverage and tax free distributions from government retirement plans for public safety officers for the purchase of health and long-term care coverage. Also included in H.R. 2830 was a provision permitting Flexible Spending Account (FSA) participants to roll over up to \$500 per year in their FSA or to transfer that amount to a Health Savings Account (HSA).

As enacted, H.R. 4 included pension reform provisions based on H.R. 2830 and Senate pension reform bill provisions.

Title I reforms the funding rules for single-employer defined benefit pension plans. The bill provides a permanent interest rate based on a "modified yield curve" to measure current pension liabilities. Interest rates for measuring liabilities and asset values may be smoothed over 24 months. Employers are required to make contributions to meet a 100 percent funding target (phased-in for certain plans that are well funded). Any funding shortfall must be am-

ortized over seven years. The bill reforms the use of credit balances.

Sponsors of certain plans that are “at-risk” must make accelerated contributions. A plan is deemed to be “at-risk” if, for the preceding plan year, (1) the plan’s assets are less than 70 percent of its liabilities calculated using “at-risk” assumptions, and (2) the plan’s assets are less than 80 percent of its liabilities calculated using non-at-risk assumptions. Plans that are “at-risk” must assume that during the next 10 years participants will retire at the earliest date available under the plan and will elect the most expensive benefit available under the plan. Plans with fewer than 500 participants are exempt from the “at-risk” rules.

Title II of H.R. 4 reforms the funding rules for multiemployer defined benefit pension plans. The bill modifies the amortization periods applicable to multiemployer plans so the amortization period for most charges is 15 years. The bill requires the adoption of a funding improvement plan for multiemployer pension plans that are in “endangered status” and a rehabilitation plan for multiemployer plans that are in “critical status.” The maximum deductible amount is increased to 140 percent of current liability. Benefit increases are prohibited if the increase causes the plan to fall below 65 percent funded status.

Title III extends for 2 years (2006 and 2007) the long-term corporate bond rate established under the Pension Funding Equity Act of 2004 (P.L. 108–218) as a temporary replacement for the 30-year Treasury rate in calculating pension funding and premium payments to the Pension Benefit Guaranty Corporation (PBGC). The bill changes the interest rate assumptions used in calculating and applying benefit limitations to lump sum distributions.

Title IV modifies the calculation liability for purposes of the PBGC variable rate premium to reflect the changes to the general funding rules under the bill. The bill eliminates the full funding exception to the variable rate premium and makes permanent the termination premium enacted in the Deficit Reduction Act of 2005 (P.L. 109–171). In addition, Title IV establishes special funding rules for certain plans maintained by commercial airlines, limits the PBGC guarantee of certain shutdown benefits, authorizes the PBGC to pay interest on premium overpayment refunds, and makes the position of PBGC Director a Presidential appointment subject to Senate confirmation by both the Finance Committee and the Health, Education, Labor, and Pensions Committee.

Title V requires both single and multiemployer defined benefit pension plans to include more detailed and specific information on their form 5500 filings. The bill also requires disclosure of termination information to plan participants, notice of freedom to divest employer securities, periodic pension benefit statements and notice to participants or beneficiaries of blackout periods.

Title VI provides a prohibited transaction exemptions under Employee Retirement Income Security Act (ERISA) (P.L. 93–406) and the Code for the provision of certain investment advice. The bill provides prohibited transaction exemptions under ERISA and the Code for certain block trades. The bill provides a prohibited transaction exemption under ERISA and the Code for certain transactions that are corrected within 14 days of the date the disquali-

fied person discovers, or reasonably should have discovered, the transaction was a prohibited transaction.

Title VII clarifies the legal uncertainty associated with hybrid pension plans and provides that defined benefit plans are not age discriminatory if, as of any date, a participant's accrued benefit under the terms of the plan is equal to the accrued benefit of any similarly situated younger participant.

Title VIII includes a number of tax incentives to enhance retirement savings, including: making permanent the pension and retirement saving provisions (including the saver's credit) in "The Economic Growth and Tax Relief Extension Act of 2001"; requiring the IRS to establish procedures for depositing tax refunds directly into an IRA; creating a safe harbor to encourage employers to offer automatic enrollment in employer-sponsored defined contribution pension plans; and eliminating the aggregate limit on the use of excess funds from black lung trusts to be used to fund retiree health for coal miners. The bill included the modified long-term care annuity and public safety officers' distribution rules, but not the FSA rollover rule.

H.R. 4 also includes several provisions related to Judges of the U.S. Tax Court. The bill includes provisions that provide cost-of-living adjustments to annuities paid to survivors of Tax Court judges and authorizes the Tax Court to pay the increased cost of life insurance for Tax Court judges. The bill also allows Tax Court judges to participate in the U.S. Government Thrift Savings Plan. The bill consolidates judicial review of collection due process activity in the Tax Court and clarifies that the Tax Court may authorize its special trial judges to enter decisions in employment tax cases that are subject to certain small case proceedings. The bill confirms that the Tax Court may apply equitable recoupment principles to the same extent as District Courts and the Court of Federal Claims. The bill also clarifies, in keeping with current Tax Court procedure, that the Tax Court is authorized to impose a \$60 filing fee for all cases commenced by petition and expands the use of fees to provide services to pro se taxpayers.

Title XII includes provisions related to exempt organizations by providing incentives for charitable giving and reforms for certain exempt organizations. These incentives and reforms had been previously passed by the Senate. In general, the charitable giving incentives are effective for 2 years through 2007, and the reforms are enacted on a permanent basis.

The charitable giving incentives include a provision that provides an exclusion from gross income for certain distributions of up to \$100,000 from a traditional individual retirement account (IRA) or a Roth IRA, which would otherwise be included in income. To qualify, the charitable distribution must be made to a tax-exempt organization to which deductible contributions can be made. Donations to supporting organizations and donor-advised funds do not qualify for this exclusion. For donations of food inventory, the bill extends to all trades and businesses an enhanced deduction equal to the lesser of (i) the taxpayer's basis plus one-half of the difference between fair market value and basis, and (ii) twice the taxpayer's basis in the contributed inventory. The bill would allow the reduction of a shareholder's basis in the stock of an S corporation as a result of the donation of such stock to charity to equal the share-

holder's pro rata share of the basis of the contributed property. The provision extends the current-law provision that adds public schools to the list of eligible donees for the enhanced deduction for contributions of qualified book inventory by C corporations. H.R. 4 provides that payments received or accrued by certain exempt parent organizations from taxable controlled subsidiaries will not be treated as unrelated business taxable income. Exempt organizations are required to report these amounts received from controlled organizations. The bill raises the charitable deduction limit from 30 percent of adjusted gross income to 50 percent of adjusted gross income for qualified conservation contributions. This charitable deduction limit is raised to 100 percent of adjusted gross income for eligible farmers and ranchers. The bill would also exempt qualified blood collection organizations from paying certain excise taxes.

The reforms related to tax-exempt organizations in H.R. 4 require charitable organizations to report to the Secretary of the Treasury certain acquisitions of interests in certain insurance contracts for 2 years beginning on the date of enactment. The bill doubles the amount of excise taxes applicable to certain activities by charities, social welfare organizations, private foundations and exempt organization managers. The bill allows a charitable deduction with respect to easements concerning buildings located in a registered historic district. However, the easement must provide that no portion of the exterior of the building may be changed or altered in a manner inconsistent with the historical character of the exterior. This provision also clarifies that the charitable deduction is reduced if a rehabilitation tax credit has been claimed with respect to the donated property. The bill limits the basis for donated taxidermy property to the cost of preparing, stuffing and mounting an animal. The value of the deduction would be equal to the lesser of basis or fair market value. The bill requires the recovery of the tax benefit derived from the contribution of property with respect to which a fair market value deduction was claimed if the property is not used for an exempt purpose of the donee organization. The bill specifies that no deduction is allowed for charitable contributions of clothing and household items if such items are not in good used condition or better. In addition, the Secretary may deny a deduction for any item with minimal monetary value.

The bill further requires that in the case of a charitable contribution of money, regardless of the amount, the donor must maintain a cancelled check, bank record or receipt from the donee organization showing the name of the donee organization, the date of the contribution, and the amount of the contribution. The bill also requires that charities receiving a fractional interest in an item of tangible personal property must take complete ownership of the item within 10 years or the death of the donor, whichever is first. In addition, the donee must have (i) taken possession of the item at least once during the 10-year period as long as the donor remains alive, and (ii) used the item for the organization's exempt purpose. The bill lowers the thresholds for imposing accuracy-related penalties on a taxpayer who claims a deduction for donated property for which a qualified appraisal is required. The provision also applies for purposes of estate tax appraisals and provides definitions of a qualified appraiser and qualified appraisals. The bill imposes certain requirements on tax-exempt organizations that

offer credit counseling services, subject to a four-year transition rule to limit the allowable amount of debt management plan (DMP) income to 50 percent of revenues. This provision also imposes restrictions on organizations offering credit counseling services with respect to loans, fees, and solicitation of contributions from consumers receiving counseling. The bill amends the definition of gross investment income to include capital gains, notional principal contracts, annuities, and other substantially similar investment income.

The bill clarifies the definition of a convention or association of churches and requires certain exempt organizations to file an annual notice with the IRS containing basic contact and financial information. The bill provides that upon written request by an appropriate state official, the Secretary may disclose information regarding organizations for which the IRS has denied or revoked tax-exempt status, certain other actions the IRS may have taken, and returns filed by tax-exempt organizations. It also extends the present-law public disclosure requirements applicable to Form 990 to the unrelated business income tax returns of Section 501(c)(3) organizations.

Under the bill, the Secretary will undertake a study on the organization and operation of donor-advised funds and of supporting organizations under the bill. The study will include an examination of requirements for determining if such organizations are operating in a manner consistent with the purposes or functions constituting the basis for their tax-exempt status.

Finally, H.R. 4 applies an excess benefits transaction tax on any grant, loan, compensation or other similar payments from a donor-advised fund to a person that with respect to such fund is a donor, donor adviser, or a related person, and from a supporting organization to a substantial contributor or a related person. This provision imposes excess business holdings rules on donor advised funds and Type III supporting organizations. Transition rules apply to the present holdings of donor-advised funds and supporting organizations. Supporting organizations that are functionally integrated with their charity would not be subject to any excess business holdings.

*r. Tax Relief and Health Care Act of 2006 (H.R. 6111)*<sup>1</sup>

H.R. 6111, originally introduced by Congresswoman Ellen Tauscher (D-CA), was passed with an amendment by the House under suspension of the rules on December 5, 2006. The original bill gave the Tax Court jurisdiction over cases involving innocent spouse relief. The Senate passed the bill by unanimous consent with an amendment to the effective date and returned the bill to the House on December 7, 2006. On December 8, 2006, the House passed H.R. 6111 with an amendment by a vote of 367 to 45 after defeating an amendment sponsored by Representative Ed Markey to the Senate amendment by a vote of 205–207. The Senate followed suit, passing the bill by a vote of 67–21 on December 9, 2006.

As amended by the House on December 8, 2006 and passed by the Senate, H.R. 6111 included the House-passed legislation on Tax Court jurisdiction and a number of provisions previously passed by

<sup>1</sup> At the time of printing, the Public Law number for H.R. 6111 was not available.



the House in H.R. 5970. Generally, the bill extended provisions of law such as the research and experimentation credit, the tuition deduction, deduction for sales taxes and the above the line deduction for teachers' out of pocket expenses for a period of two years beginning after 2005 as was done in H.R. 5970. The amended bill also included provisions making a number of Tax Increase Prevention and Reconciliation Act of 2005 (P.L. 109-222) provisions permanent as well as deductions for private mortgage insurance premiums, adjustments to the tonnage tax for Great Lakes shipping and other provisions which had been included in H.R. 5970. It included abandoned mine fund reforms from H.R. 5970 intended to address retiree health care needs.

H.R. 6111 included several items not included in H.R. 5970. These provisions included adjustments in Medicare payments to physicians, extension of the Section 45 energy tax credits and certain other incentive programs originally enacted in the Energy Policy Act of 2005 (P.L. 109-58), 50 percent bonus depreciation for investment in cellulosic ethanol facilities, modification of tax credits for gasification of sub-bituminous coal, wilderness legislation pertaining to White Pine County, Nevada, authorizing exploration of certain areas of the Outer Continental Shelf by including the text of S. 3711 as passed by the Senate (with one technical amendment) and included the provisions of H.R. 6134, the Health Opportunity Empowerment Act of 2006 as ordered reported by the Committee on Ways and Means by a vote of 24-14 on September 27, 2006. The Health Opportunity Empowerment Act provisions modified contribution limits for HSAs, allow taxpayers to have an HSA though still technically eligible for FSAs benefits, revised the date for calculating cost of living adjustments, allow employers to make larger contributions to HSAs on behalf of lower-income workers and permitted rollovers of funds from Health Reimbursement Accounts, FSAs and IRAs. The bill included several trade-related provisions, including modifications of the exemption from tariffs for cigarettes brought in for personal use, cotton shirt and trust fund tariff provisions and legislation to implement the U.S.-European Union accord on wine labeling.

*s. Fallen Firefighters Assistance Tax Clarification Act of 2006 (H.R. 6429)*

Rep. Mary Bono introduced H.R. 6429 on December 8, 2006. The bill treats payments by charitable organizations to the families of those firefighters who died as result of the October 2006 Esperanza Incident fire in southern California as exempt payments. It passed the House by Unanimous Consent and passed the Senate without amendment by Unanimous Consent on December 9, 2006. The bill was signed by the President on December 21, 2006.<sup>2</sup>

*t. Leaking Underground Storage Tank Trust Fund (H.R. 6131)*

On September 21, 2006, Representative Chris Chocoma introduced H.R. 6131, to permit certain expenditures from the Leaking Underground Storage Tank Trust. The bill passed the House under suspension of the rules by voice vote on September 26, 2006. The bill passed the Senate without amendment by unanimous consent on

<sup>2</sup> At the time of printing, the Public Law number for H.R. 6429 was not available.

December 8, 2006 and was signed by the President on December 20, 2006.<sup>3</sup> The text of H.R. 6131 was also included in H.R. 6111 as enacted.

## 2. TAX RELIEF AND OTHER PROPOSALS

### *a. Death Tax Repeal Permanency Act (H.R. 8)*

Representative Kenny Hulshof introduced H.R. 8 on February 17, 2005. H.R. 8 would extend permanently the repeal of the estate tax. The bill passed the House on April 13, 2005 by a 272–162 vote. The bill has not been considered by the Senate.

### *b. Rail Infrastructure Development and Expansion Act for the 21st Century (RIDE 21) (H.R. 1631)*

H.R. 1631 was introduced by Chairman Don Young of the Committee on Transportation and Infrastructure on April 14, 2005 and reported by that Committee on November 18, 2005. The bill was also referred to the Committee on Ways and Means, which reported the bill by voice vote as amended and without recommendation on February 3, 2006. The House has not considered the bill.

During consideration of the bill on February 1, 2006, the Committee on Ways and Means struck provisions of the bill as introduced which authorized issuance of \$12 billion in tax-exempt bonds and another \$12 billion in federal tax credit bonds for the purpose of financing high-speed rail infrastructure. The Committee struck these provisions, which were within its jurisdiction, in order to consider proposals to expand use of tax-preferred state and local financing in a more comprehensive manner. The Subcommittee on Select Revenue Measures subsequently held a hearing to examine tax-preferred bond policies on March 16, 2006.

### *c. Pension Security and Transparency Act of 2005 (H.R. 2830)*

The Committee acted to improve the security of pensions and retirement savings in 2005 by reporting provisions to enhance single and multi-employer defined benefit plan financing and through other measures. The Committee considered these matters during consideration of H.R. 2830, the “Pension Security and Transparency Act of 2005.” H.R. 2830 was introduced by Chairman John Boehner of the House Committee on Education and the Workforce, the Committee on Ways and Means Chairman Thomas and others on June 9, 2005 and referred to the Committee on Education and the Workforce and the Committee on Ways and Means. Education and the Workforce ordered the bill reported with amendments on June 30, 2005. Subsequently, Ways and Means marked up H.R. 2830 and ordered the bill reported as amended on November 9, 2005 by a record vote of 23–17. The Committees’ bills were combined in a single text considered by the House under a rule and was passed by the House on December 15, 2005 by a vote of 294–132. The House appointed conferees on H.R. 2830 and the Senate amendment to the bill on March 8, 2006.

Elements of H.R. 2830 as modified under agreement with Senate conferees were included in H.R. 4, the “Pension Protection Act of 2006.” For further information on H.R. 4 (P.L. 109–280), see sub-

<sup>3</sup> At the time of printing, the Public Law number for H.R. 6131 was not available.

section q. Pension Protection Act of 2006 (P.L. 109–280) in Bills Enacted into Law during the 109th Congress.

*d. Tax Technical Corrections Act of 2005 (H.R. 3376)*

H.R. 3376, the “Tax Technical Corrections Act of 2005,” was introduced by Chairman Thomas on July 21, 2005. The Committee on Ways and Means issued a request for written comments from the public on August 31, 2005 (WMCP 109–8). Companion legislation was introduced by the Senate on the same day by Senator Grassley and Senator Baucus as S. 1447. Similar legislation was introduced in the 108th Congress as H.R. 5395 and S. 3019.

The bill makes technical and clerical corrections to the Internal Revenue Code, including corrections to provisions enacted by: (1) the American Jobs Creation Act of 2004; (2) the Working Families Tax Relief Act of 2004; (3) the Jobs and Growth Tax Relief Reconciliation Act of 2003; (4) the Victims of Terrorism Tax Relief Act of 2001; (5) the Transportation Equity Act for the 21st Century; and (6) the Taxpayer Relief Act of 1997.

Provisions contained in H.R. 3376 were included in H.R. 4440, the Gulf Opportunity Zone Act of 2005. H.R. 4440 was introduced by Rep. Jim McCrery (R-LA) on December 6, 2005, passed the House by a vote of 414–4 on December 7, 2005, passed the Senate with an amendment by unanimous consent on December 16, 2005 and subsequently by the House as amended by the Senate, and signed by the President on December 22, 2005 as P.L. 109–135.

*e. Stealth Tax Relief Act of 2005 (H.R. 4096)*

On October 20, 2005, Rep. Reynolds introduced H.R. 4096, the “Stealth Tax Relief Act of 2005.” Under the bill, the 2005 alternative minimum tax exemption amount of \$40,250 (\$58,000 for joint returns) would be extended through 2006 and adjusted for inflation. The bill passed the House on December 7, 2005 by a vote of 414–4 under suspension of the rules. The Senate did not act on H.R. 4096. The exemption amount was subsequently extended and increased in the Tax Increase Prevention and Reconciliation Act (P.L. 109–222).

*f. Gulf Opportunity Zone Public Finance Relief Act of 2005 (H.R. 4337)*

H.R. 4337, the Gulf Opportunity Zone Public Finance Relief Act of 2005, was introduced by Representative Jefferson on November 16, 2005. The House passed the bill the same day by unanimous consent. Provisions were included later in H.R. 4440 (P.L. 109–135).

The bill would allow a tax credit for investment in “Gulf tax credit bonds.” For this purpose, a “Gulf tax credit bond” is defined as any bond: (1) that is issued by Alabama, Louisiana, or Mississippi after December 31, 2005, and before January 1, 2007; (2) 95 percent of the proceeds of which are used to refinance existing bonds or make loans to localities for such refinancing; and (3) the maturity of which does not exceed two years. The bill requires states issuing “Gulf tax credit bonds” to pledge matching amounts equal to the face amount of such bonds. The bill limits the amount of eligible “Gulf tax credit bonds” to \$200 billion for Louisiana, \$100 billion for Mississippi, and \$50 billion for Alabama.

The bill also allows for one additional advance refunding of outstanding bond obligations of Alabama, Louisiana, or Mississippi until December 31, 2010. The amount of bonds eligible for an advance refunding are limited to \$4.5 billion for Louisiana, \$2.25 billion for Mississippi, and \$1.125 billion for Alabama. The bill also provides for federal guarantees of up to \$3 billion of the bonds issued by Alabama, Louisiana, or Mississippi before January 1, 2008, for the purpose of restoring lost revenue and funding infrastructure in areas affected by Hurricane Katrina. The bill limits such guarantee to 50 percent of bond principal. The “Gulf tax credit bond” and advance refunding provisions of H.R. 4337 were included in H.R. 4440.

*g. Tax Revision Act of 2005 (H.R. 4388)*

On November 18, 2005, Chairman Thomas introduced H.R. 4388, the “Tax Revision Act of 2005” to extend several tax provisions scheduled to expire at the end of 2005. Under suspension of the rules, the bill passed the House on December 7, 2005 by a vote of 423–0. The Senate did not consider the bill.

H.R. 4388 would extend several provisions for 1 year through 2006. These provisions are a special rule which allows military personnel the option of including their combat pay in the Earned Income Tax Credit calculation, the transfer to Puerto Rico and the Virgin Islands of \$13.25 per-proof gallon of rum imported into the United States, and the authority for the IRS to use income recovered by undercover operations to pay additional expenses incurred by such operations. It also extends for one year (through 2006) the authority for the IRS to disclose certain tax information with certain other Federal and State authorities. This disclosure authority is limited to activities to the investigation of terrorist activities, to facilitate the repayment of student loans, and to facilitate combined employment tax reporting. H.R. 4388 also allows U.S. businesses operating in Puerto Rico to claim the domestic manufacturing deduction in 2006. This bill generally included many items which could not be included in budget reconciliation.

*h. Permanent Estate Tax Relief Act of 2006 (H.R. 5638)*

Chairman Thomas introduced H.R. 5638 on June 19, 2006. The bill was considered by the House on June 22, 2006 and passed by a vote of 269–156.

As introduced and passed by the House, H.R. 5638 provided for permanent relief from the estate and gift tax by reunifying the estate and gift tax for decedents dying or gifts made after December 31, 2009, providing a \$5 million per decedent exemption amount, setting the tax rate at the long term capital gains rate for the first \$25 million in cumulative taxable transfers and at twice the long term gains rate for amounts valued above \$25 million. The exemption amounts would become portable: to the extent one spouse was unable to use the full \$5 million exemption, the surviving spouse would be able to use the excess. The provisions also permanently repealed carryover basis, the credit for state death taxes, repealed qualified family owned business trusts and denied a deduction for state death taxes paid.

H.R. 5638 also included a deduction for qualified timber gains. The deduction equaled the lesser of 60% of such gains or net cap-

ital gains and could be taken against both the regular tax and the alternative minimum tax.

*i. Estate Tax and Extension of Tax Relief Act of 2006 (H.R. 5970)*

H.R. 5970, the “Estate Tax and Extension of Tax Relief Act of 2006,” was introduced by Chairman Thomas on July 28, 2006 and passed by the House on July 29, 2006 by a vote of 230–180. The Senate was unable to proceed on the measure as a motion to invoke cloture failed on August 3, 2006 by a vote of 56 to 42.

As introduced and passed by the House, H.R. 5970 provided permanent estate and gift relief similar to that contained in H.R. 5638. The bill reunified the estate and gift tax for decedents dying or gifts made after December 31, 2009, provided a \$5 million per decedent exemption amount (increasing the exemption amount from \$3.75 million to \$5 million between 2010 and 2015), setting the rate at the long term capital gains rate for the first \$25 million in cumulative taxable transfers. Transfers in excess of \$25 million would be subject to tax at rates of 40 percent in 2010, 38 percent in 2011, 36 percent in 2012, 34% in 2013, 32 percent in 2014 and 30% in and after 2015. The \$25 million threshold be indexed against inflation beginning in 2016. The exemption amount for each spouse would become portable: to the extent one spouse was unable to use the full \$5 million exemption, the surviving spouse would be able to use the excess. The provisions also permanently repealed carryover basis, the credit for state death taxes, repealed qualified family owned business trusts and denied a deduction for state death taxes paid.

H.R. 5970 also included extensions of a number of tax provisions which had expired at the end of 2005 or which faced expiration in the near future. Among the provisions extended were a modified research and experimentation tax credit, reforms of the Work Opportunity Tax Credit and Welfare to Work Credit, the deduction for state sales taxes, investment and hiring incentives for activities on Indian reservations, the New Markets Tax Credit, the deduction for qualified tuition expenses, extension of Qualified Zone Academy Bonds, expensing of the cost of cleaning up “brownfields”, 15-year depreciation for leasehold and restaurant improvements (extended to new restaurants), the cover over of \$13.25 per proof gallon of rum excise taxes to Puerto Rico and the Virgin Islands, charitable contributions of computers (enhanced to cover self-constructed property), mental health parity and suspension of the 100 percent of net income limit on percentage depletion on marginal oil and gas wells. Most of these provisions had expired at the end of 2005 and would have been extended for 2 years under the bill.

H.R. 5970 also included a 2-year economic development credit for American Samoa, revisions in tax incentives for rebuilding the New York Liberty Zone, an extension of bonus depreciation for businesses in the Gulf Opportunity Zone and extensions of certain IRS disclosure and undercover authority. As well, the bill provided a tax credit intended to relieve taxpayers facing AMT liability as a result of receiving incentive stock options, partial expensing for mine safety equipment and a tax credit for mine rescue team training, extended the manufacturing deduction under section 199 to Puerto Rico for 2 years, a 60 percent deduction for timber gains, a 1-year deduction for Private Mortgage Insurance premiums, fed-

eral tax credits for holders of Rural Renaissance Bonds, temporary restoration of the deduction for spousal travel and a series of other small provisions. The bill would also have made a number of temporary provisions included in the Tax Increase Prevention and Reconciliation Act of 2005 permanent. Finally, the bill included reform of the Combined Benefit Fund (established by the Coal Industry Retiree Health Benefit Act of 1992), to permit certain operators to prepay their liability and provisions to increase the federal minimum wage.

*j. Health Opportunity Patient Empowerment Act of 2006 (H.R. 6134)*

H.R. 6134, as introduced by Representative Eric Cantor and Representative Paul Ryan on September 21, 2006, was ordered reported by the Committee on Ways and Means as amended on September 29, 2006 by a vote of 24–14. The text of H.R. 6134 was included in an amendment to the Tax Relief and Health Care Act (H.R. 6111)<sup>4</sup> on December 8, 2006.

As introduced, H.R. 6134 included a number of modifications to HSAs. These modifications included setting the limit for HSA contributions at the statutory amount, allowing mid-year HSA enrollees to make the full annual contribution, accelerating announcement of indexed amounts for various HSA limits effective after in 2008, allowing employers to make higher contributions for non-highly compensated employees and permitting tax free rollover of funds from HRAs, health FSAs and IRAs. As modified by the Committee, the reported bill accelerated announcement of indexed amounts to take effect after 2007 and allowed taxpayers to make contributions to an HSA notwithstanding certain residual coverage under a FSA.

*k. Haitian and African Trade (H.R. 6142)*

H.R. 6142 was introduced by Chairman Thomas on September 21, 2005. The bill included the African Investment Incentive Act to provide investment incentives for U.S. companies in Africa and to extend modified third-country fabric benefits. Included in H.R. 6142 is a provision to provide a tax credit for new wages paid and capital investments in eligible African countries. The credit is available to U.S. corporations that invest in eligible African countries directly (through “branch” operations) and indirectly (through controlled foreign corporations and partnerships). The credit is equal to 60 percent of additional wages and fringe benefits and an amount (15 percent–65 percent) of depreciation on new investments in tangible property (other than vessels, aircraft and related containers). The credit can be carried forward for 10 years. The credit (as well as any carryforward) expires for taxable years beginning after December 31, 2015.

*l. Tax Technical Corrections Act of 2006 (H.R. 6264)*

H.R. 6264, the “Tax Technical Corrections Act of 2006,” was introduced by Chairman Thomas on September 29, 2006. On that same day, The Committee on Ways and means issued a public request for comments. Companion legislation was introduced by the

<sup>4</sup> At the time of printing, the Public Law number for H.R. 6111 was not available.

Senate on the same day by Senator Grassley and Senator Max Baucus as S. 4026.

The bill makes technical and clerical corrections to the Internal Revenue Code, including corrections to provisions enacted by: (1) the Tax Increase Prevention and Reconciliation Act of 2005; (2) the Energy Policy Act of 2005; (3) the American Jobs Creation Act of 2004; and (4) other tax legislation.

### 3. OTHER TAX MATTERS

#### *a. Budget Hearings*

On February 8, 2005, the full Committee held a hearing to receive testimony from Secretary of the Treasury John Snow concerning programs within the President's FY 2006 budget within the jurisdiction of the Committee.

On February 9, 2005, the full Committee received testimony from Joshua Bolten, Director of the Office of Management and Budget, concerning programs within the President's FY 2006 budget within the jurisdiction of the Committee.

On February 17, 2005, the full Committee held a hearing to receive testimony from Secretary of Health and Human Services Michael O. Leavitt concerning programs within the President's FY 2006 budget within the jurisdiction of the Committee.

On March 16, 2005, the full Committee held a hearing to receive testimony from Secretary of Labor Elaine Chao regarding programs within the President's FY 2006 budget within the jurisdiction of the Committee.

On February 8, 2005, the full Committee held a hearing to receive testimony from Secretary of Health and Human Services Michael O. Leavitt concerning programs within the President's FY 2007 budget within the jurisdiction of the Committee.

On February 8, 2006, the full Committee received testimony from Joshua Bolten, Director of the Office of Management and Budget, concerning programs within the President's FY 2007 budget within the jurisdiction of the Committee.

On February 15, 2006, the full Committee held a hearing to receive testimony from Secretary of the Treasury John Snow concerning programs within the President's FY 2007 budget within the jurisdiction of the Committee.

#### *b. Tax Reform Hearings (Full Committee)*

On June 8, 2005, the Committee received testimony on economic policy issues for consideration in reforming federal taxation from (i) Alan J. Auerbach, Professor of Economics and Law, University of California at Berkeley; (ii) William Beach, Director of the Center for Data Analysis, The Heritage Foundation; (iii) Leonard E. Burman, Co-Director of Tax Policy Center and Senior Fellow, Urban Institute; (iv) R. Glenn Hubbard, Dean, Columbia University Graduate School of Business; (v) and Joel B. Slemrod, Professor of Economics, University of Michigan.

*c. Hearings Held During the 109th Congress by the Subcommittee on Select Revenue Measures*

*i. President's Proposal for Single-Employer Pension Funding Reform*

On March 8, 2005, the Subcommittee received testimony from representatives of the Departments of Labor and Treasury, the Pension Benefit Guarantee Corporation and representatives of the private sector concerning the need for pension funding reform and possible impacts of the funding reform proposals including in President Bush's FY 2007 budget submission.

*ii. Tax Credits for Electricity Production from Renewable Sources.*

The Subcommittee received testimony from the Department of Energy and private sector representatives on the economics and effects of incentives for the production of energy from renewable sources, including wind, solar, geothermal, and biomass, on May 24, 2005.

*iii. Funding rules for Multiemployer Defined Benefit Plans in H.R. 2830, the Pension Protection Act of 2005*

On June 28, 2005, the Subcommittee received testimony on the potential effects and proposed modifications of multiemployer pension funding rules included in H.R. 2830 to improve the solvency of such plans.

*iv. Proposals for Comprehensive Tax Reform.*

On July 28, 2005, the Subcommittee received testimony from Members of Congress concerning their proposals for restructuring federal taxes.

*v. Hearing on Miscellaneous Tax Proposals Offered by Members of the House of Representatives.*

The Subcommittee on November 16, 2005 received testimony on reform proposals from Members of the Congress.

*vi. Use of Tax-Preferred Bond Financing.*

On March 16, 2006, the Subcommittee received testimony from Members of Congress, the Department of Treasury, the Congressional Budget Office, a representative of state and local government and from the private sector concerning the economy value of tax-exempt financing and suggestions for reform.

*vii. Corporate Tax Reform.*

On May 9, 2006, the Subcommittee examined issues involved in possible corporate tax reforms including rate reduction, base broadening and whether tax accounting should conform to book accounting methods.

*viii. Impact of International Tax Reform on U.S. Competitiveness.*

The Subcommittee received testimony on June 22, 2006 concerning trends in international taxation affecting U.S. businesses overseas and suggestions for reform.



*ix. Issues Relating To The Patenting Of Tax Advice.*

On July 13, 2006, the Subcommittee held a hearing to explore the effect on the federal tax system of issuing patents for tax compliance strategies.

*x. Hearing on Miscellaneous Tax Proposals Offered by Members of the House of Representatives.*

The Subcommittee on September 26, 2006 received testimony on reform proposals from Members of Congress.

## B. LEGISLATIVE REVIEW OF TRADE ISSUES

### 1. BILLS CONSIDERED UNDER TRADE PROMOTION AUTHORITY (TPA)

#### *a. Legislation*

##### *i. United States-Dominican Republic-Central America Free Trade Implementation Act*

On June 15, 2005, the Committee informally approved with amendment draft legislation to implement the Dominican Republic-Central America-United States Free Trade Agreement (DR-CAFTA), by a roll call vote of 25–16. The Committee conducted this informal markup to provide advice to the Administration on the implementing bill and Statement of Administrative Action. On June 23, 2005, Majority Leader DeLay introduced (by request) H.R. 3045, the “Dominican Republic-Central America-United States Free Trade Agreement Implementation Act,” to be considered under TPA. On June 30, 2005, the Committee held a formal markup session to consider H.R. 3045. The Committee approved the bill and favorably reported H.R. 3045 by a roll call vote of 25–16. Under TPA, amendments are not permitted to the bill once it has been introduced. On July 28, 2005, the House passed the bill by a recorded vote of 217–215. On June 30, 2005, before the House took action on H.R. 3045, the Senate passed S. 1307 by a recorded vote of 54–45. On July 28, 2005, the Senate passed H.R. 3045, without amendment, by a recorded vote of 55–45. The President signed the bill into law on August 2, 2005 (P.L. 109–53).

In 2006, Congress took up technical amendments to DR-CAFTA. On July 28, 2006, the House passed H.R. 4, the Pension Protection Act of 2006, which included a provision to extend narrow proclamation authority to the President to implement changes to certain apparel rules of origin with respect to countries that have entered into letters of understanding concerning pocketing material with the United States and, subject to certain Congressional notification and layover limitations, with respect to countries that will do so in the future. H.R. 4 passed the House by a recorded vote of 279–131. On August 3, 2006, the Senate passed H.R. 4, without amendment, by a recorded vote of 93–5. The President signed the bill into law on August 17, 2006 (P.L. 109–280).

##### *ii. United States-Bahrain Free Trade Implementation Act*

On November 3, 2005, the Committee informally approved draft legislation to implement the United States-Bahrain Free Trade Agreement, by a roll call vote of 23–0, with 15 Members voting present, without amendment. The Committee conducted this informal markup to provide advice to the Administration on the imple-

menting bill and Statement of Administrative Action. On November 16, 2005, Acting Majority Leader Blunt introduced (by request) H.R. 4340, the “United States-Bahrain Free Trade Agreement Implementation Act,” to be considered under TPA. On November 18, 2005, the Committee held a formal mark-up session to consider H.R. 4340. The Committee approved the bill and favorably reported H.R. 4340 by voice vote. Under TPA, amendments are not permitted to the bill once it has been introduced. On December 7, 2005, the House passed the bill by a recorded vote of 327–95. On December 13, 2005, the Senate passed H.R. 4340 by unanimous consent. The President signed the bill into law on January 11, 2006 (P.L. 109–169).

*iii. United States-Oman Free Trade Implementation Act*

On May 10, 2006, the Committee informally approved draft legislation to implement the United States-Oman Free Trade Agreement, by a roll call vote of 23–11, with 3 Members voting present, without amendment. The Committee conducted this informal mark-up to provide advice to the Administration on the implementing bill and Statement of Administrative Action. On June 26, 2006, Majority Leader Boehner introduced (by request) H.R. 5684, the “United States-Oman Free Trade Agreement Implementation Act,” to be considered under TPA. On June 29, 2006, the Committee held a formal markup session to consider H.R. 5684. The Committee approved the bill and favorably reported H.R. 5684 by a roll call vote of 23–15. Under TPA, amendments are not permitted. On June 29, 2006, before the House took action on H.R. 5684, the Senate passed S. 3569 by a recorded vote of 60–34. On July 20, 2006, the House passed the bill by a recorded vote of 221–205. On September 19, 2006, the Senate passed H.R. 5684 by a recorded vote of 62–32. The President signed the bill into law on September 26, 2006 (P.L. 109–283).

*iv. United States-Peru Trade Promotion Agreement Implementation Act*

On July 20, 2006, the Committee informally approved draft legislation to implement the United States-Peru Trade Promotion Agreement, by a roll call vote of 23–13, without amendment. The Committee conducted this informal markup to provide advice to the Administration on the implementing bill and Statement of Administrative Action. No further action was taken in the 109th Congress.

*b. Hearings*

*i. DR-CAFTA*

On April 21, 2005, the Committee held a hearing on implementation of the U.S. bilateral free trade agreement with El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica, and the Dominican Republic (DR-CAFTA). The agreement was signed on May 28, 2004, by U.S. Trade Representative Robert Zoellick and Ministers of El Salvador, Guatemala, Honduras, Nicaragua, and Costa Rica. Witnesses at the hearing included Deputy U.S. Trade Representative Peter Allgeier and representatives from the business community, labor unions, and non-governmental organizations. The hear-

ing focused on Congressional consideration of the DR–CAFTA and the benefits that the agreement would bring to American businesses, farmers, workers, and the U.S. economy.

*ii. Bahrain*

On September 29, 2005, the Committee held a hearing on implementation of the U.S. bilateral free trade agreement with Bahrain. The agreement was signed on September 14, 2004, by U.S. Trade Representative Zoellick and Bahrain Minister of Finance and National Economy Abdulla Hassan Saif. Witnesses at the hearing included Assistant U.S. Trade Representative Shaun Donnelly, as well as representatives from the private sector. The hearing focused on Congressional consideration of the United States-Bahrain FTA and the benefits that the agreement would bring to American businesses, farmers, workers, consumers, and the U.S. economy.

*iii. Oman*

On April 5, 2006, the Committee held a hearing on implementation of the U.S. bilateral free trade agreement with Oman. The agreement was signed on January 19, 2006, by U.S. Trade Representative Rob Portman and Omani Minister of Commerce and Industry Maqbool bin Ali Sultan. Witnesses at the hearing included Deputy U.S. Trade Representative Susan Schwab, as well as representatives from the private sector. The hearing focused on Congressional consideration of the United States-Oman FTA and the benefits that the agreement would bring to American businesses, farmers, workers, consumers, and the U.S. economy, as well as the U.S. strategic relationship in the region.

*iv. Peru*

On July 12, 2006, the Committee held a hearing on implementation of the United States bilateral free trade agreement with Peru. The agreement was signed on April 12, 2006, by U.S. Trade Representative Portman and Peruvian Minister of Foreign Trade and Tourism Alfredo Ferrero Diez Canseco. Witnesses at the hearing included Assistant United States Trade Representative for the Americas, Everett Eissenstat, as well as representatives from the private sector and non-governmental organizations. The hearing focused on Congressional consideration of the United States-Peru Trade Promotion Agreement and the benefits that the agreement would bring to American businesses, farmers, workers, consumers, and the U.S. economy, as well as to U.S. trade relations with our neighbors in the hemisphere.

*c. Reports*

In August 2004, the Committee received from the International Trade Commission (ITC) the report entitled “U.S.-Central America-Dominican Republic Free Trade Agreement: Potential Economy-wide and Selected Sectoral Effects” (Investigation No. TA 2104–13 (Publication 3717)).

In October 2004, the Committee received from the ITC the report entitled “U.S.-Bahrain Free Trade Agreement: Potential Economy-wide and Selected Sectoral Effects” (Investigation No. TA–2104–15 (Publication 3726)).

In April 2005, the Committee received from the ITC the report entitled “U.S.-Morocco Free Trade Agreement: Effect of Modifications to the U.S.-Morocco Free Trade Agreement” (Investigation No. Morocco FTA 103–11 (Publication 3774, April 2005)).

In February 2006, the Committee received from the ITC the report entitled “U.S.-Oman Free Trade Agreement: Potential Economy-wide and Selected Sectoral Effects” (Investigation No. TA–2104–19 (Publication 3837)).

In June 2006, the Committee received from the ITC the report entitled “U.S.-Peru Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects” (Investigation No. TA–2104–20 (Publication 3855)).

## 2. WORLD TRADE ORGANIZATION (WTO)

### *a. Legislation*

On March 2, 2005, Congressman Sanders introduced H.J. Res. 27, a resolution to withdraw Congressional approval of the agreement establishing the WTO. Under the Uruguay Round Agreements Act (P.L. 103–465), the resolution is privileged and subject to specialized procedures. The resolution is not amendable and must be considered on the floor within 45 days of introduction. The resolution was referred to the Committee on Ways and Means, which adversely reported the resolution on May 26, 2005, by voice vote. On June 9, 2005, the House considered the resolution and failed to pass it, by a recorded vote of 86–338 with 1 member voting present. No further action was taken on the resolution in the 109th Congress.

### *b. Hearings*

On May 17, 2005, the Subcommittee on Trade held a hearing to review future prospects for U.S. participation in the WTO. Witnesses at the hearing included Deputy U.S. Trade Representative Peter Allgeier and representatives from the business community, labor unions, and the agriculture sector. The hearing focused on overall results of U.S. membership in the WTO and General Agreement on Tariffs and Trade (GATT); whether future participation of the United States in the WTO and the multilateral trading system can be expected to benefit Americans; and prospects for increased economic opportunities for U.S. farmers, workers, and consumers in the Doha Round.

### *c. Hong Kong Staff Delegation (December 14–18, 2005)*

On December 14–18, 2005, a bipartisan delegation of staff from the Committee on Ways and Means and the Senate Committee on Finance attended the WTO’s Ministerial Conference in Hong Kong, consulted with U.S. trade officials during the negotiations, and discussed trade issues with foreign delegates and WTO officials. Staff met with foreign delegations, U.S. business representatives, and WTO Secretariat staff. An important objective of the meetings was to highlight the importance that Members of Congress place on trade and especially on the need for trade liberalization in the agricultural sector.

*d. Reports*

In May 2005, the Committee received from the Government Accountability Office (GAO), the report entitled “World Trade Organization: Global Trade Talks Back on Track, but Considerable Work Needed to Fulfill Ambitious Objectives” (GAO-05-538). As a follow up to its 2004 report on the problems with the WTO Cancun Ministerial, the GAO reported on the breakthrough made in July 2005 to create a framework for further negotiations. The GAO also noted the uneven progress made in the various trade negotiating groups given the focus on agriculture by many key countries. The report also described the continuing difficulties for future progress such as the complexity of the agenda and competing goals between developed and developing countries. The GAO also highlighted the timing constraints for the negotiations because of the expiration of trade negotiating authority for the President in July 2007. The GAO continues to monitor negotiations for the Committee.

In August 2005, the Committee received from the Congressional Budget Office the paper entitled “Policies That Distort World Agricultural Trade: Prevalence and Magnitude.” The paper reviewed the effects of trade distorting policies including hindrances to market access, various forms of domestic subsidy programs, and export subsidization.

In December 2005, the Committee received from the Congressional Budget Office the paper entitled “The Effects of Liberalizing World Agricultural Trade: A Survey.” The paper reviewed the economic literature on the total cost of policies that distort agricultural trade, the potential impact of the Doha Round on eliminating distortions, and the distribution of benefits among key agriculture producing countries.

In April 2006, the Committee received from the GAO the report entitled “World Trade Organization: Limited Progress at Hong Kong Ministerial Clouds Prospects for Doha Agreement” (GAO-06-596).

### 3. BILATERAL AND REGIONAL ISSUES

*a. Free Trade Agreements*

*i. Completed Agreements*

**Dominican Republic-Central America Free Trade Agreement**

Negotiations for the U.S.-Dominican Republic-Central America Free Trade Agreement were completed in May 2004. As noted above, the President signed the implementing legislation into law on August 2, 2005 (P.L. 109-53).

**Bahrain**

Negotiations for the U.S.-Bahrain Free Trade Agreement were completed in May 2004. As noted above, the President signed the implementing legislation into law on January 11, 2006 (P.L. 109-169).

**Oman**

Negotiations for the U.S.-Oman Free Trade Agreement were completed in October 2005. As noted above, the President signed the bill into law on September 26, 2006 (P.L. 109-283).

## Peru

On November 18, 2003, U.S. Trade Representative Zoellick formally notified Congress of the Administration's intent to initiate negotiations for a free trade agreement with Colombia, Ecuador, and Peru. Negotiations began in May 2004 with Colombia, Ecuador, and Peru. Bolivia was an observer in the negotiations. On December 7, 2005, the United States and Peru concluded FTA negotiations. On January 6, 2006, President Bush officially notified Congress of his intent to sign the U.S.-Peru Trade Promotion Agreement. The agreement was signed on April 12, 2006. See above for discussion of legislative activity related to the U.S.-Peru Trade Promotion Agreement.

## Colombia

As noted above, on November 18, 2003, U.S. Trade Representative Zoellick formally notified Congress of the Administration's intent to initiate negotiations for a free trade agreement with Colombia, Ecuador, and Peru. Negotiations began in May 2004 with Colombia, Ecuador, and Peru. On February 27, 2006, the United States and Colombia concluded FTA negotiations. On August 24, 2006, President Bush officially notified Congress of his intent to sign the U.S.-Colombia Trade Promotion Agreement. The agreement was signed on November 22, 2006.

### *ii. Ongoing Negotiations*

## Southern African Customs Union (SACU)

Pursuant to Sense of Congress language in the Africa Growth and Opportunities Act of 2000 (P.L. 106-200), on November 4, 2002, U.S. Trade Representative Zoellick formally notified Congress of the Administration's intent to initiate negotiations for a free trade agreement negotiations with the SACU countries (South Africa, Lesotho, Swaziland, Botswana, and Namibia). Negotiations between the United States and the SACU countries were launched on June 2, 2003, in Pretoria, South Africa and were suspended in 2006 due to lack of progress.

## Korea

On February 2, 2006, U.S. Trade Representative Portman formally notified Congress of the Administration's intent to initiate negotiations for a free trade agreement with the Republic of Korea. Negotiations began in June 2006.

## Malaysia

On March 8, 2006, U.S. Trade Representative Portman formally notified Congress of the Administration's intent to initiate negotiations for a free trade agreement with Malaysia. Negotiations were launched in June 2006.

## Ecuador

As noted above, on November 18, 2003, the U.S. Trade Representative Zoellick formally notified Congress of the Administration's intent to initiate negotiations for a free trade agreement with Colombia, Ecuador, and Peru. Negotiations began in May 2004 with Colombia, Ecuador, and Peru. See discussion above concerning

the conclusion of negotiations with Peru and Colombia. The United States and Ecuador suspended negotiations in May 2006.

#### Panama

On November 18, 2003, U.S. Trade Representative Zoellick formally notified Congress of the Administration's intent to initiate negotiations for a free trade agreement with Panama. Negotiations were launched on April 26, 2004.

#### Thailand

On February 12, 2004, U.S. Trade Representative Zoellick formally notified Congress of the Administration's intent to initiate negotiations for a free trade agreement with Thailand. Negotiations began in June 2004, and the sixth round was held in January 2006. However, FTA talks were suspended after a political crisis enveloped Thailand in April 2006. In September 2006, a military coup ousted the sitting government. The United States has stated that the FTA talks will not resume until Thailand has a democratically elected government with authority to resume the negotiations.

#### United Arab Emirates (UAE)

The United States signed a Trade and Investment Framework Agreement (TIFA) with the UAE on March 15, 2004. On November 15, 2004, U.S. Trade Representative Zoellick formally notified Congress of the Administration's intent to initiate negotiations for a free trade agreement with the UAE. A free trade agreement with the UAE is part of the goal announced by the President to form a Middle East Free Trade Area by 2013. The first round of negotiations was held on March 8, 2005. There have been four full fledged negotiating rounds and three formal rounds on investment, with the last round in August 2006.

#### *iii. Codel to Colombia, Ecuador, and Peru (July 3–9, 2005)*

On July 3–9, 2005, Chairman Thomas led a bipartisan delegation of Committee Members to Colombia, Ecuador, and Peru. The purpose of the delegation's trip was to focus on the ongoing negotiations for a free trade agreement with these countries and to discuss investment and security issues in the region. The delegation in particular emphasized that current unilateral trade preferences under the Andean Trade Promotion and Drug Eradication (ATPDEA) are set to expire in December 2006, and the only way that the Andean countries can replicate their access to the U.S. market after these benefits expire is through a comprehensive free trade agreement providing reciprocal market access. In September 2005, the Committee filed its "Report on Trade Mission to Colombia, Ecuador, and Peru." (WMCP 109–6)

#### *b. China*

##### *i. Legislation*

On July 14, 2005, Congressman Phil English introduced H.R. 3283, the "Trade Rights Enforcement Act." The bill would authorize funding for enforcement offices within USTR, require reports on China's currency exchange reforms, authorize the application of

U.S. countervailing duty law to exports from nonmarket economies such as China, and establish a system of comprehensive monitoring of Chinese compliance with its trade obligations. The bill was referred to the Committee and placed on the House Suspension Calendar on July 26, 2005. The bill failed to pass with the requisite two-thirds majority with a vote of 240–186. The bill subsequently passed the House under a rule on July 27, 2005, by a recorded vote of 255–168. No further action was taken on this legislation in the 109th Congress.

*ii. Hearing*

On April 14, 2005, the Committee held a hearing on U.S.-China economic relations and China's role in the world economy. During the hearing, the Committee received testimony from Members of Congress, the Administration, the Congressional Budget Office, and private sector interests. The hearing focused on (1) implementation of China's WTO accession commitments; (2) trade relations between the United States and China; (3) China's currency management; and (4) the relationship between trade with China and the U.S. economy.

*iii. GAO and ITC activities*

On January 25, 2005, the Ranking Members of the Committee received from the GAO the report entitled "U.S.-China Trade: Summary of 2003 World Trade Organization Transitional Review Mechanism for China" (GAO-05-209R U.S.-China Trade).

On April 14, 2005, the Committee received from the GAO a report entitled "U.S.-China Trade: Opportunities to Improve U.S. Government Efforts to Ensure Open and Fair Markets" (GAO-05-544T).

In June 2005, the Committee received from the GAO a report entitled "U.S.-China Trade: Commerce Faces Practical and Legal Challenges in Applying Countervailing Duties" (GAO-05-474).

On December 9, 2005, the Committee received from the GAO the report entitled "China Trade: U.S. Exports, Investment, Affiliate Sales Rising, but Export Share Falling" (GAO-06-162).

On September 21, 2006, Chairman Bill Thomas requested a three-part study pursuant to section 332 of the Trade Act of 1930 on China trade and investment, which will be due in parts through the middle of 2008.

*c. Burma*

On July 28, 2003, the President signed into law the "Burmese Freedom and Democracy Act of 2003" (P.L. 108-61), to sanction the ruling Burmese military junta, strengthen Burma's democratic forces, and support and recognize the National League of Democracy as the legitimate representative of the Burmese people. Among other things, the legislation prohibits the importation into the United States of any article that is a product of Burma (Myanmar) until the President determines and certifies to Congress that Burma has met certain conditions, including that: (1) the State Peace and Development Council (SPDC) has made substantial and measurable progress to end violations of internationally recognized human rights; (2) the SPDC has made measurable and substantial progress toward implementing a democratic govern-



ment; and (3) Burma has not been designated as a country that has failed demonstrably to make substantial efforts to adhere to its obligations under international counter-narcotics agreements and to take other effective counter narcotics measures. The law authorizes the President to waive such requirements if it is in the U.S. national interest. The import restrictions would expire one year after enactment unless renewed by Congress with a joint resolution meeting certain requirements, and the authority to renew these sanctions annually was initially set to expire in 2006. Congress has annually renewed the import restrictions.

On May 26, 2005, Congressman Lantos introduced H.J. Res. 52 to extend the import sanctions for one year. On June 21, 2005, H.J. Res. 52 was approved by the House under suspension of the rules by a recorded vote of 423–2. On July 19, 2005, the bill passed the Senate without amendment by a recorded vote of 97–1. The President signed H.J. Res. 52 into law on July 27, 2005 (P.L. 109–39).

The most recent renewal was contained in H.J. Res. 86, introduced by Congressman Lantos on May 19, 2006. H.J. Res. 86 extends the import ban for another year and gives Congress the option to annually extend the import ban for two additional years if Burma does not make progress in its human rights record and if Congress determines that continued import sanctions are the most appropriate policy to induce change by the Government of Burma. On July 11, 2006, H.J. Res. 86 was approved by the House under suspension of the rules by a voice vote. On July 26, 2006, the bill passed the Senate without amendment by a voice vote. The President signed H.J. Res. 86 into law on August 1, 2006 (P.L. 109–251).

#### *d. Preferences Legislation*

On September 21, 2006, Chairman Thomas introduced H.R. 6142, the Trade Preferences Act. The bill would (1) extend the Generalized System of Preferences (GSP) for two years subject to new limitations on waivers of competitive need limits, (2) extend and enhance apparel and textile benefits under the African Growth and Opportunity Act including a two-year extension of benefits for apparel using third country fabric and a subsequent value-added rule of origin, and (3) create a new preference program for Haiti for apparel and automotive wire harnesses in addition to benefits for which Haiti is currently eligible under the Caribbean Basin Economic Recovery Act (P.L. 98–67, P.L. 106–200, and P.L. 107–210). No further action was taken on the bill in the 109th Congress, but an altered version of this legislation was subsequently included in H.R. 6406.

Chairman Thomas introduced H.R. 6406 on December 7, 2006, which included several trade preference provisions to: (1) extend the GSP program for two years subject to a discretionary limitation on waivers of competitive need limits for products that constitute 150 percent of the competitive need limit or 75 percent of U.S. imports of that product; (2) extend the third country fabric benefit under AGOA until 2012, with a full 3.5 percent cap, and allowance of duty-free treatment for lesser developed countries for certain textiles of wholly made African fabric; (3) extend the trade preferences for Andean countries (Peru, Colombia, Ecuador, and Bolivia) for 6 months, followed by an additional 6-month extension for each country only if the United States and that country each complete their

legislative process to approve a trade promotion agreement; and (4) create additional trade preferences for certain apparel and automotive wire harnesses produced in Haiti meeting a new rule of origin. H.R. 6406 passed the House under a rule on December 8, 2006, by a recorded vote of 212–184. Under the rule accompanying H.R. 6111, “A bill to amend the Internal Revenue Code of 1986 to provide that the Tax Court may review claims for equitable innocent spouse relief and to suspend the running on the period of limitations while such claims are pending,” H.R. 6406 was merged into H.R. 6111, which then passed the Senate on December 9, 2006, by a recorded vote of 79–9. The bill was signed into law on December 20, 2006.<sup>5</sup>

*e. Japan*

*i. Legislation*

On July 14, 2005, Congressman Phil English introduced H.R. 3283, the Trade Rights Enforcement Act, which is described above under legislation related to China. Among other things, the bill urged the President to address Japan’s currency interventions and various trade barriers through additional funding to USTR enforcement offices. The bill passed the House on July 27, 2005, by a recorded vote of 255–168. No further action was taken on this legislation in the 109th Congress.

*ii. Hearing*

On September 28, 2005, the Committee held a hearing on U.S.-Japan economic and trade relations. During the hearing, the Committee received testimony from Members of Congress, the Administration, and private sector interests. The hearing focused on (1) Japan’s economic problems, their causes, and impact on the U.S. and world economy; (2) Japan’s barriers to agriculture imports such as the ban on U.S. beef, discriminatory government actions against U.S. products, and general non-tariff barriers; (3) Japan’s role in the current WTO negotiations; and (4) the recent economic and regulatory reform attempts in Japan, including legislation to privatize major components of Kampo, the Japanese postal entity. Subsequently, in December 2005, Japanese authorities lifted the ban on beef imports from the United States for cattle under 20 months but then suspended imports in January 2006. Trade resumed for such beef on July 27, 2006.

*iii. Reports*

On March 7, 2006, Chairman Thomas requested a study pursuant to section 332 of the Trade Act of 1930 regarding the market conditions and government regulation affecting U.S.-made medical devices sold in Japan. The report is still pending.

*f. Russia*

On July 28, 2005, Congressman Issa introduced H. Con. Res. 230 due to concerns about rampant piracy and a lack of effective intellectual property rights (IPR) protections in Russia. H. Con. Res. 230 expresses the sense of Congress that (1) the Russian Federation should provide effective protection of IPR or it risks losing its

<sup>5</sup> At the time of printing, the Public Law number for H.R. 6111 was not available.

eligibility to participate in the GSP program, and (2) as part of its effort to accede to the WTO, the Russian Federation must ensure that intellectual property is securely protected in law and in practice. On November 16, 2005, the House approved H. Con. Res. 230, by a vote of 421–2. On December 22, 2005, the Senate approved H. Con. Res. 230 by unanimous consent.

Russia's trade status is subject to the "Jackson-Vanik" provisions. The President first declared Russia to be in full compliance with the Jackson-Vanik requirements in 1994, and such Presidential certification has been annually renewed. Russia is in the process of acceding to the WTO. If the United States and Russia are to enjoy a full-fledged trade relationship once Russia joins the WTO, Congress must pass legislation to end the annual Jackson-Vanik review and grant permanent normal trade relations (PNTR). No bills were introduced in the 109th Congress to grant PNTR to Russia. On May 11, 2006, Chairman Thomas, Ranking Member Rangel, Senate Finance Committee Chairman Grassley, and Ranking Member Baucus sent a letter to President Bush expressing concern that Russia has not demonstrated its willingness, ability, and commitment to abide by WTO rules, particularly on enforcement of IPR and the application of SPS measures. The letter stated that until Russia addresses these critical issues in a meaningful way, the signatories would not support granting PNTR to Russia. The United States and Russia made significant progress in addressing the concerns raised in the letter, and on November 10, 2006, both countries announced a bilateral agreement in principle for Russia's accession to the WTO. The bilateral agreement was signed on November 19, 2006.

*g. Ukraine*

Ukraine's trade status was subject to the "Jackson-Vanik" provisions in Title IV of the Trade Act of 1974 (P.L. 93–618). This provision of law governs the extension of normal trade relations (NTR), including NTR tariff treatment, and access to U.S. Government credits, or credit or investment guarantees, to nonmarket economy countries ineligible for NTR treatment as of the enactment of the Act. The President first declared Ukraine to be in full compliance with the Jackson-Vanik requirements in 1997, and such Presidential certification has been annually renewed.

Ukraine is in the process of acceding to the WTO. So as to allow the United States and Ukraine to enjoy a full-fledged trade relationship once Ukraine joins the WTO, Congress passed legislation to end the annual Jackson-Vanik review and grant PNTR. On November 18, 2005, the Senate passed S. 632 to grant PNTR to Ukraine by unanimous consent. On March 6, 2006, Chairman Thomas and U.S. Trade Representative Rob Portman exchanged letters confirming that the Administration will ensure that Ukraine will comply fully with all of the commitments that it will assume as a WTO member before the United States will join the consensus necessary for Ukraine to join the body. On March 8, 2006, the House approved H.R. 1053 to grant PNTR to Ukraine, by a vote of 417–2, with three Members voting present. On March 9, 2006, the Senate approved H.R. 1053 by unanimous consent. The bill was signed by the President and became law on March 23, 2006 (P.L. 109–205).

#### *h. Vietnam*

Vietnam's trade status is subject to the "Jackson-Vanik" provisions in Title IV of the Trade Act of 1974. This provision of law governs the extension of NTR, including NTR tariff treatment, and access to U.S. Government credits, or credit or investment guarantees, to nonmarket economy countries ineligible for NTR treatment as of the enactment of the Act. A country subject to the provision may gain conditional NTR, and eligibility for U.S. trade financing programs, by complying with the freedom of emigration provisions under the Act or by receiving a waiver of such requirements by the President. Vietnam has received Presidential waivers of Jackson-Vanik provisions since 1998, most recently on June 5, 2006. Congress has not voted on a Jackson-Vanik disapproval resolution since 2002 because no Member has introduced one in time. In 2002, Vietnam's disapproval resolution was defeated by a vote of 91–328.

Vietnam is in the process of acceding to the WTO and is scheduled to do so in January 2007. If the United States and Vietnam are to enjoy a full-fledged trade relationship once Vietnam joins the WTO, the annual Jackson-Vanik review must be ended and replaced with PNTR. Legislation to grant PNTR to Vietnam was introduced in the House (H.R. 5602) and Senate (S. 3495) on June 13, 2006. The bill was referred to the Committee on Ways and Means and placed on the House Suspension Calendar on November 13, 2006 with an amendment to establish a mechanism for the Administration to determine whether Vietnam grants any prohibited subsidies to its textile and apparel industry after its accession to the WTO. The bill failed to pass with the requisite two-thirds majority, by a vote of 228–161. The provision (with the amendment) was subsequently included in H.R. 6406, which passed the House on December 8, 2006, by a recorded vote of 212–184 and, as described above, was subsequently merged into H.R. 6111, which passed the Senate on December 9, 2006, by a recorded vote of 79–9.

### 4. CONGRESSIONAL OVERSIGHT GROUP

#### *a. Trade Act of 2002*

Section 2017 of the Trade Act of 2002 (P.L. 107–210) establishes the Congressional Oversight Group (COG), to be co-chaired by the Chairmen of the Ways and Means and Finance Committees and to be composed of the Chairman and Ranking Member of those Committees of the House and Senate that would have jurisdiction over provisions of law affected by trade agreement negotiations during each Congress. The purpose of the COG is to provide the President and the U.S. Trade Representative with advice regarding the formulation of specific objectives, negotiating strategies and positions, the development of trade agreements, and compliance and enforcement of negotiated commitments under trade agreements.

#### *b. Operation of the COG*

On February 2, 2005, Chairman Thomas convened an organizational meeting of the COG. Chairman Thomas invited the House COG subgroup to a meeting hosted by the Senate on September 8, 2005, to consult with U.S. Trade Representative Portman regarding ongoing trade negotiations and the upcoming WTO Hong Kong

Ministerial. Among many other issues, U.S. Trade Representative Portman identified four potential candidates for free trade agreements with the United States: Malaysia, Switzerland, Egypt, and Korea. U.S. Trade Representative Portman also consulted about the Multi-Chip Integrated Circuits (MCP) agreement, which was signed later in September. Chairman Thomas invited the House COG subgroup to a meeting hosted by the House on September 27, 2006, to consult with U.S. Trade Representative Schwab regarding ongoing trade negotiations.

##### 5. MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 2006

On March 11, 2005, Subcommittee on Trade Chairman Shaw requested that Members introduce bills for inclusion in a miscellaneous trade bill package. On July 25, 2005 and August 5, 2005, Chairman Shaw requested written comments from parties interested in these miscellaneous trade proposals, technical corrections to the trade laws, and temporary suspensions on certain imports. On March 14, 2006, Chairman Shaw introduced H.R. 4944, the Miscellaneous Trade and Technical Corrections Act of 2006, which was referred to the Committee on Ways and Means. The bill included 570 duty suspensions on various products, several reliquidations of prior import entries due to government error, and miscellaneous trade provisions and technical corrections. The duty suspension provisions related mostly to products (largely chemicals) for which there are no U.S. domestic manufacturers. On March 15, 2006, the House passed H.R. 4944 under suspension of the rules, by a recorded vote of 412–2. H.R. 4944 was subsequently referred to the Senate Committee on Finance. No further action occurred on H.R. 4944 during the 109th Congress.

Approximately half of the provisions from H.R. 4944 (all provisions that had companion legislation already introduced in the Senate) were included in H.R. 4, the Pension Protection Act of 2006. Also included in H.R. 4 were provisions to suspend duties on ceiling fans, nuclear steam generators, and certain television components. In addition, the bill contained: a provision to extend the wool trust fund and associated wool fabric duty suspension, enacted most recently in the Miscellaneous Trade and Technical Corrections Act of 2004, for an additional two years; a provision to clarify an existing duty exemption for certain vessel repairs performed by a ship's regular crew; and a provision to suspend for three years the ability of importers of subject merchandise from new shippers to post a bond in lieu of a cash deposit during the pendency of a review of an anti-dumping or countervailing duty order. On July 28, 2006, the House passed H.R. 4 by a recorded vote of 279–131. On August 3, 2006, the Senate passed H.R. 4, without amendment, by a recorded vote of 93–5. The President signed the bill into law on August 17, 2006 (P.L. 109–280).

The remaining provisions of H.R. 4944 were subsequently included in H.R. 6406 along with 232 Senate-only duty suspensions on various products. H.R. 6406 passed the House on December 8, 2006, by a recorded vote of 212–184 and, as described above, was subsequently merged into H.R. 6111, which passed the Senate on December 9, 2006, by a recorded vote of 79–9.

## 6. TRADE AGENCY AUTHORIZATION AND APPROPRIATION

The Committee on Ways and Means, working with the Committee on Homeland Security, included several trade and customs revenue provisions and established a 1 year authorization for U.S. Customs and Border Protection (CBP) as part of H.R. 1817, the “Department of Homeland Security Authorization Act for Fiscal Year 2006,” to provide CBP with guidance as it plans its budgets and to provide Committee guidance in the appropriations process. The bill was reported out of the Committee on Homeland Security on May 3, 2005, and the Committee on Ways and Means received a joint, sequential referral for a period not ending later than May 13, 2005. Through an exchange of letters on May 12, 2005, the two committees agreed to include in the Manager’s Amendment various changes requested by the Committee on Ways and Means concerning trade and customs matters. In addition, the Committees agreed to include customs provisions that were previously passed out of the House of Representatives in the 108th Congress as part of H.R. 4418, the “Customs and Border Security Act of 2004,” particularly sections 102 (providing for the establishment of a cost accounting system), 104 (requiring a report on the One Face at the Border Initiative), 124 (authorizing Customs to provide certain services to Charter aircraft carriers), and 125 (stating the sense of the Congress regarding textile enforcement provisions in certain trade preference programs). H.R. 1817 was passed in the House by recorded vote 424–4 on May 18, 2005. No further action was taken on this bill in the 109th Congress.

*a. Authorization legislation*

On November 14, 2005, Congressman Peter King introduced H.R. 4312, the “Border Security and Terrorism Prevention Act of 2005,” which contained several provisions dealing with authorizations and border security issues that impact the flow of trade and imports and customs revenue, matters under the jurisdiction of the Committee on Ways and Means. The Committee on Ways and Means and the Homeland Security reached agreement to certain modifications to H.R. 4312 to preserve the jurisdiction of the Committee on Ways and Means and to protect trade and customs revenue interests. This agreement was memorialized in an exchange of letters on December 6, 2005. The trade-related provisions agreed to between these Committees for inclusion in H.R. 4312 were later incorporated in H.R. 4437, the “Border Protection, Antiterrorism and Illegal Immigration Control Act of 2005,” which had been introduced by Congressman F. James Sensenbrenner on December 6, 2005 and reported out of the Committee on the Judiciary on December 13, 2005. The bill was referred jointly and sequentially to the Committee on Ways and Means on December 13, 2005 for a period not ending later than December 14, 2005. The Committee on Ways and Means discharged the bill on December 14, 2005. H.R. 4437 was passed in the House by a recorded vote 239–182 on December 16, 2005.

On March 14, 2006, Congressman Dan Lungren introduced H.R. 4954, the Security and Accountability For Every (SAFE) Port Act. On May 3, 2006, Chairman Thomas and Committee on Homeland Security Chairman Peter King exchanged letters acknowledging

the jurisdiction of the Committee on Ways and Means and its agreement to forgo consideration of the bill. On May 4, 2006, the legislation passed the House by a recorded vote of 421–2. On September 14, 2006, the bill passed the Senate with an amendment by a vote of 98–0. On September 30, 2006, the conference report to H.R. 4954 passed the House by a recorded vote of 409–2. On September 30, 2006, the Senate agreed to the conference report by unanimous consent. It was signed into law by the President on October 13, 2006 (P.L. 109–347).

On December 7, 2006, Chairman Thomas introduced H.R. 6406, which included a provision to extend the current 15-day period to 30 days for changes to the Harmonized Tariff Schedule to be finalized after publication in a Presidential proclamation to afford the private sector sufficient time to incorporate all of the changes in their computer systems and avoid costly, time-consuming errors to entries. H.R. 6406 passed the House pursuant to a rule on December 8, 2006, by a recorded vote of 212–184. Under the rule accompanying H.R. 6111, H.R. 6406 was merged into H.R. 6111, which then passed the Senate on December 9, 2006, by a recorded vote of 79–9. The bill was signed in to law on December 20, 2006.<sup>6</sup>

*b. Appropriation Legislation*

*i. Department of Homeland Security Appropriations Act of 2006*

On May 13, 2005, Congressman Rogers introduced H.R. 2360, making appropriations for the Department of Homeland Security. The bill passed the House on May 17, 2005, by a vote of 424–1. The Senate subsequently took up and amended H.R. 2360 with two provisions within the jurisdiction of the Committee on Ways and Means. Specifically, the Senate accepted amendment 1166, which would have designated the MidAmerica St. Louis Airport in Illinois as a port of entry, and amendment 1172, which would have designated the National County International Airport in Wyoming as a user-fee airport under the U.S. customs laws. The Senate passed H.R. 3058 with these provisions on July 13, 2005, by a recorded vote of 96–1. On September 13, 2005, Chairman Thomas sent a letter to Appropriations Committee Chairman Lewis objecting to inclusion of these two provisions in the conference report for H.R. 3058. The provisions were dropped in conference.

*ii. Overtime for U.S. Customs and Border Protection Employees*

On May 13, 2005, Congressman Rogers introduced H.R. 2360, making appropriations for the Department of Homeland Security for fiscal year 2006. The bill contained provisions within the jurisdiction of the Committee on Ways and Means that would have limited the amount of overtime pay that could be provided to Bureau of Customs and Border Protection employees. On May 16 and 17, 2005, Chairman Thomas and Subcommittee on Homeland Security Chairman Rogers exchanged letters acknowledging the jurisdiction of the Committee on Ways and Means and its agreement to forgo consideration of the bill. On May 17, 2005, the legislation passed the House by a recorded vote of 424–1. On July 14, 2005, the bill

<sup>6</sup>At the time of printing, the Public Law number for H.R. 6111 was not available.

passed the Senate with an amendment by a vote of 96–1. On October 6, 2005, the conference report to H.R. 2360 passed the House by a recorded vote of 347–70. On October 7, 2005, the conference report passed the Senate by voice vote. It was signed into law by the President on October 18, 2005 (P.L. 109–90).

*c. Hearing*

On July 25, 2006, the Subcommittee held a hearing to review budget authorizations for FY2007 and FY2008 for U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE). In addition, the hearing addressed other Customs issues, including: the creation of CBP and ICE and the integration of the former U.S. Customs Service into the U.S. Department of Homeland Security, the Customs Trade Partnership Against Terrorism (C-TPAT) program, Customs automation and modernization efforts and the mechanisms needed to fund them, and general Customs oversight issues. Witnesses at the hearing included CBP Commissioner W. Ralph Basham, ICE Assistant Secretary Julie Myers, and representatives from the business community, customs brokers and labor unions.

*d. Report*

On March 8, 2006, Chairman Thomas requested the GAO to carry out a review of the CBP’s continuous entry bond policy, identifying the effects of the policy on U.S. importers and trade flows and examining how this policy relates to other policies and practices for collecting antidumping and countervailing duties. On October 19, 2006, the Committee received from the GAO the report entitled “Customs” Revised Bonding Policy Reduces Risk of Uncollected Duties, but Concerns about Uneven Implementation and Effects Remain” (GAO–07–50). The report was released to the public on November 15, 2006. The GAO found that the revised policy significantly increased bond amounts for some importers and that CBP did not fully account for the increased cost to importers, particularly as a result of increased collateral requirements. The GAO recommended that the Commissioner of CBP conduct a formal review of the lessons learned from implementing the revised policy on shrimp imports and to develop clear and consistent guidance for implementing the policy as well as the basis upon which CPB will reduce importers’ bond requirement.

## 7. THE CONTINUED DUMPING AND SUBSIDY OFFSET ACT

*a. Legislation*

The Continued Dumping and Subsidy Offset Act (CDSOA) was enacted into law in October 2000 (P.L. 106–387) and requires the annual disbursement of antidumping and countervailing duties to qualified petitioners and interested parties in the underlying trade remedy proceedings. On January 16, 2003, the WTO’s Appellate Body issued a final adverse ruling against the CDSOA, finding that it is inconsistent with U.S. obligations to the WTO. On November 28, 2004, the WTO authorized approximately \$134 million in retaliation against the United States for FY2003 CDSOA disbursements. Under the methodology set by the WTO to determine the appropriate amount of retaliation, the level may change annually



and is set at 72 percent of CDSOA disbursements for the previous year. Canada, Mexico, the European Union, and Japan imposed retaliatory tariffs against a variety of U.S. exports.

On March 3, 2005, Congressman Ramstad and Chairman Shaw introduced H.R. 1121 to repeal the CDSOA. On July 25, 2005, Chairman Shaw requested written comments from parties interested in miscellaneous trade proposals, including H.R. 1121. Over 150 comments were received on H.R. 1121, and comments were nearly equally divided with a slight majority supporting CDSOA repeal.

On October 26, 2005, the Ways and Means Committee approved "Entitlement Reconciliation Recommendations for Fiscal Year 2006," as amended, by a vote of 22–17. The recommendations included a provision to repeal the CDSOA effective upon enactment. On November 18, 2005, the House approved H.R. 4241, the "Deficit Reduction Act of 2005," by a 217–215 vote. The House-passed bill included immediate CDSOA repeal. On November 3, 2005, the Senate passed S. 1932, the "Deficit Reduction Omnibus Reconciliation Act of 2005," by a vote of 52–47. The Senate-passed bill did not include CDSOA repeal. On December 15, 2005, the Senate passed a nonbinding motion offered by Senator DeWine instructing Senate conferees to insist that any conference report not include CDSOA repeal, by a vote of 71–20. The conference report for the Deficit Reduction Act of 2005 was filed on December 19, 2005 and contained a provision to repeal the CDSOA immediately upon enactment but allowing the continued disbursements of duties on goods entered before October 1, 2007. On December 19, 2005, the House approved the conference report by a vote of 212–206. On December 21, 2005, the Senate approved the conference report with an amendment to provisions unrelated to CDSOA repeal, by a vote of 51–50. On February 1, 2006, the House approved the bill as amended by the Senate by a vote of 216–214. President Bush signed the bill into law on February 8, 2006 (P.L. 109–171).

FY2006 CDSOA disbursements of nearly \$380 million were issued to recipients on November 27, 2006.

#### *b. Reports*

On April 30, 2004, Trade Subcommittee Chairman Crane, along with Congressmen Ramstad, Boehner, and Biggert, requested the U.S. Government Accountability Office (GAO) to carry out a comprehensive review of the CDSOA and its impact on recipient industries, including an analysis of how CDSOA funds have been used by recipient companies. In January 2005, Subcommittee on Trade Chairman E. Clay Shaw renewed the request for the CDSOA review.

On September 26, 2005, the Committee received from the GAO the report entitled "International Trade: Issues and Effects of Implementing the Continued Dumping and Subsidy Offset Act" (GAO–05–979). The GAO found that since the inception of CDSOA (FY2001), five companies (three of which are related) received 46% of the over \$1 billion in payments. GAO also reported that two-thirds of all payments went to three industries: bearings, candles, and steel. The GAO concluded that the CDSOA does not provide a "trade remedy" in the traditional sense because it is not available to all companies; many domestic producers impacted by dumped or

subsidized imports are ineligible to receive funds because they did not formally and publicly support the petition that resulted in the duties.

## 8. MISCELLANEOUS TRADE ISSUES

### *a. Conflict Diamonds*

The Clean Diamonds Act of 2003 (P.L. 108–19) was initiated in the Committee in 2003. The Act restricts the import and export of diamonds from countries with inadequate controls against the trade in conflict diamonds. In accordance with Section 5(c) of the Act, the State Department issued to the Committee on July 14, 2005 a report on the performance of the U.S. Kimberley Process Authority (USKPA). The report described and reviewed the practices, standards, and procedures of the USKPA. The Committee continues to monitor implementation of the Kimberly Process.

In September 2006, the Committee received from the GAO the report entitled “Conflict Diamonds: Agency Actions Needed to Enhance Implementation of the Clean Diamond Trade Act” (GAO–06–978).

### *b. Other Select ITC Reports Received by the Committee*

In May 2005, the Committee received from the ITC the report entitled “Certain Yarns and Fabrics: Effect of Modification of U.S. Singapore FTA Rules of Origin for Goods of Singapore” (Investigation No. Singapore FTA 103–10 (Publication 3783, May 2005)).

In May 2005, the Committee received from the ITC the report entitled “Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences” (Investigation No. 332–466 (Publication 3772, May 2005)).

In May 2005, the Committee received from the ITC the report entitled “Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2004 Special Review” (Investigation No. 332–467 (Publication 3773, May 2005)).

In June 2005, the Committee received from the ITC the report entitled “The Impact of Trade Agreements Implemented Under Trade Promotion Authority” (Investigation No. TA 2103–1 (Publication 3780, June 2005)).

In June 2005, the Committee received from the ITC the report entitled “Export Opportunities and Barriers in African Growth and Opportunity Act—Eligible Countries” (Investigation No. 332–464 (Publication 3785, June 2005)).

In July 2005, the Committee received from the ITC the report entitled “U.S. Trade Shifts in Selected Industries and Recent Trends in U.S. Services Trade” (Investigation No. 332–345 (Publication 3789, July 2005)).

In July 2005, the Committee received from the ITC the report entitled “Year in Trade 2004: Operation of the Trade Agreements Program” (Investigation No. 163–1 (Publication 3779, July 2005)).

In September 2005, the Committee received from the ITC the report entitled “Probable Effect of Certain Modifications to the North American Free Trade Agreement Rules of Origin” (Investigation No. NAFTA 103–12 (Publication 3802, September 2005)).

In September 2005, the Committee received from the ITC the report entitled “Biannual Report of the Impact of the Caribbean

Basin Economic Recovery Act on U.S. Industries and Customers” (Investigation No. 332–227 (Publication 3804, September 2005)).

In September 2005, the Committee received from the ITC the report entitled “Andean Trade Preference Act: Effect on the U.S. Economy and on Andean Drug Crop Eradication and Crop Substitution” (Investigation No. 332–352 (Publication 3803, September 2005)).

In July 2006, the Committee received from the ITC the report entitled “Conditions of Competition for Certain Oranges and Lemons in the U.S. Fresh Market” (Investigation No. 332–469 (Publication 3863, July 2006)).

In August 2006, the Committee received from the ITC the report entitled “Year in Trade 2005: Operation of the Trade Agreements Program” (Investigation No. 163–1 (Publication 3875, August 2006)).

In August 2006, the Committee received from the ITC the report entitled “Probable Effect of Certain Modifications to the North American Free Trade Agreement Rules of Origin” (Investigation No. NAFTA 103–14 (Publication 3881, August 2006)).

In September 2006, the Committee received from the ITC the report entitled “Andean Trade Preference Act: Effect on the U.S. Economy and on Andean Drug Crop Eradication and Crop Substitution” (Investigation No. 332–352 (Publication 3888, September 2006)).

In December 2006, the Committee received from the ITC the report entitled “U.S.-Colombia Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects” (Investigation No. TA–2104–23 (Publication 3896)).

*c. Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (H.R. 2862)*

On June 10, 2005, Congressman Wolf introduced H.R. 2862, making appropriations for the Departments of State, Justice, and Commerce and other agencies for the fiscal year ending September 30, 2006. The bill was reported out of the House Committee on Appropriations on June 10, 2005. Congressman Tancredo offered a floor amendment to the bill that sought to prohibit the use of appropriated funds for negotiations that would impact U.S. immigration by the agencies covered under the bill, such as bilateral and multilateral trade negotiations by USTR. The Committee on Ways and Means issued talking points opposing this amendment, arguing that it was not needed as the Administration had already agreed not to negotiate any immigration provisions in these agreements and that it could disrupt sensitive negotiations at the WTO. In addition, Chairman Thomas, Chairman Shaw, and several other Members of the Committee on Ways and Means spoke against this amendment when it was considered on the floor on June 16, 2005. The amendment was defeated by a recorded vote of 204 to 222. The House passed H.R. 2862 on June 16, 2005, by a vote of 418–7.

The Senate subsequently took up and passed the bill on September 15, 2005, with an amendment, by a vote of 91–4. The Senate-passed version of the bill contained two new provisions within the trade jurisdiction of the Committee on Ways and Means. The first provision instructed the U.S. Trade Representative to conduct negotiations within the WTO to recognize the right of members to

distribute monies collected from antidumping and countervailing duties. On November 3, 2005, Chairman Thomas sent a letter to Committee on Appropriations Chairman Lewis objecting to the provisions and asking for its removal in conference. The Committee later acquiesced, and the conference report retained the provision.

The second Senate-passed provision was an amendment offered by Senator Grassley, which specified that no funds made available by the Act may be used in a manner that is inconsistent with the principle negotiating objective of the United States with respect to trade remedy laws to: preserve the ability of the United States to enforce vigorously its trade laws, avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, and address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers. The conference report did not retain this provision.

The House passed the conference report on November 9, 2005, by a vote of 397–19, and the Senate passed the report on November 16, 2005, by a vote of 94–5. The President signed the bill into law on November 22, 2005 (P.L. 109–108).

*d. Resolution on Antidumping and Countervailing Duty Negotiations in Tax Reconciliation*

On November 17, 2005, the Senate passed by voice vote amendment SA 2655 proposed by Senator Craig to the tax reconciliation bill (S. 2020). The amendment contained a nonbinding resolution recommending severe limitations on antidumping and countervailing negotiations in the WTO. Specifically, the resolution specified that the United States should not be a signatory to any agreement that adopts any proposal to lessen the effectiveness of domestic and international disciplines on unfair trade or safeguard provisions, including proposals that: mandate a sunset of duty orders, require that trade remedy duties reflect less than the full margin of dumping or subsidization, allow higher de minimis levels of unfair trade, make cumulation of the effects of imports from multiple countries more difficult, outlaw the practice of “zeroing” in antidumping investigations, or mandate the weighing of causes or other provisions making it more difficult to prove injury in unfair trade cases. The resolution also provided that the United States should ensure that any new agreement relating to antidumping, countervailing duty, or safeguard provisions “fully rectifies and corrects” WTO dispute settlement decisions that have “unjustifiably and negatively impacted, or threaten to negatively impact,” U.S. law or practice. On November 18, 2005, the Senate approved S. 2020 as amended by a vote of 64–33. On November 18, 2005, Congressman English introduced H. Res. 577, the text of which is identical to the Senate-passed amendment. No further action was taken on H. Res. 577. On December 8, 2005, the House approved H.R. 4297, the Tax Relief Extension Reconciliation Act of 2005, by a vote of 234–197. The House-passed tax reconciliation bill did not contain a provision related to antidumping and countervailing duty negotiations in the WTO. The conference report did not retain the Senate amendment.

*e. Overview and Compilation of U.S. Trade Statutes 2005*

On July 26, 2005, Chairman Thomas announced the publication of the Committee's Trade "Blue Book," the 2005 edition of the "Overview and Compilation of U.S. Trade Statutes" (WMCP: 109–4). The Blue Book contains a description and history of U.S. trade laws in Part I as well as the text of the statutes themselves in Part II, with updates to trade laws due to the significant legislation accomplished by the Committee during the 108th Congress.

*f. Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and Independent Agencies Appropriations Act of 2006*

On June 24, 2005, Congressman Knollenberg introduced H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and other departments and agencies. The bill contained a provision within the trade jurisdiction of the Committee on Ways and Means. Specifically, section 218 would have required the Secretary of the Treasury to report to Congress on the definition of current manipulation. On June 27, 2005, Chairman Thomas sent a letter to Rules Committee Chairman Dreier requesting that the rule for consideration of H.R. 3058 not include a waiver of Rule XXI of the Rules of the House with respect to section 218. On June 27, 2005, H. Res. 342, providing for the consideration of H.R. 3058, was introduced and reported favorably by the Committee on Rules. H. Res. 342 did not include a waiver of Rule XXI with respect to the provision within the jurisdiction of the Committee on Ways and Means. H. Res. 342 passed the House on June 28, 2005, by a vote of 219–193. On June 29, 2005, Chairman Thomas then raised a point of order against the provision, and the Chair sustained the point of order, thus stripping the provision from the bill. A modified version of section 218 was later included as section 6 in H.R. 3283 (see discussion above). The House passed H.R. 3058 on June 30, 2005, by a recorded vote of 405–18. The Senate subsequently took up and amended H.R. 3058 and included a provision similar to House section 218 in its version. The Senate version of H.R. 3058 passed the Senate on October 20, 2005, by a vote of 93–1. On November 9, 2005, Chairman Thomas sent a letter to Committee on Appropriations Chairman Lewis objecting to inclusion of the provision in the conference report. The Senate provision related to currency manipulation was subsequently dropped in conference.

*g. Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 2006*

On June 21, 2005, Congressman Regula introduced H.R. 3010, making appropriations for the Department of Labor and other departments and agencies. The bill passed the House on June 24, 2005, by a recorded vote of 250–151. The Senate subsequently took up and amended H.R. 3010 and included a provision within the jurisdiction of the Committee on Ways and Means. Specifically, the Senate included section 520, which would have established the MidAmerica St. Louis Airport in Illinois as a port of entry. The Senate passed H.R. 3010 with this provision on October 27, 2005, by a recorded vote of 94–3. On November 14, 2005, Chairman Thomas sent a letter to Appropriations Committee Chairman Lewis

objecting to the inclusion of the provision in the conference report for H.R. 3010. The provision was dropped in conference.

*h. China Prison Labor*

On November 9, 2005, Congressman Wolf introduced H. Con. Res. 294, calling on the international community to condemn the Chinese system of forced labor prison camps. The resolution included a provision related to implementation of trade laws to prohibit importation of products made in Chinese forced labor camps, which was within the jurisdiction of the Committee on Ways and Means. On December 13, 2005, Chairman Thomas and International Relations Committee Chairman Hyde exchanged letters acknowledging the jurisdiction of the Committee on Ways and Means and its agreement to forgo consideration of the bill. On December 16, 2005, H. Con. Res. 294 passed the House by a vote of 413–1 and was received in the Senate on the same day. No further action was taken in the Senate.

*i. East Asia Security Act of 2005*

On June 29, 2005, International Relations Committee Chairman Hyde introduced H.R. 3100, the East Asia Security Act of 2005. The bill contained a provision in the jurisdiction of the Committee on Ways and Means. Specifically, section 7 of the bill would have suspended the President's ability to license an exemption or expedited procedures for licensing the temporary importation of defense articles. On July 13, 2005, Chairman Thomas and Chairman Hyde exchanged letters acknowledging the jurisdiction of the Committee on Ways and Means and its agreement to forgo consideration of the bill. On July 14, 2005, the House took up and failed to pass H.R. 3100 under suspension of the rules by the requisite two-thirds majority with a recorded vote of 215–203. No further action was taken on the bill in the House.

*j. Iran and Libya Sanctions Act (ILSA)*

On January 6, 2005, Congresswoman Ileana Ros-Lehtinen introduced H.R. 282, the Iran Freedom Support Act, which included provisions related to import sanctions. On April 6, 2006, Chairman Thomas and Committee on International Relations Chairman Henry Hyde exchanged letters acknowledging the jurisdiction of the Committee on Ways and Means and its agreement to forgo consideration of the bill. On April 26, 2006, the legislation passed the House by a recorded vote of 397–21. On July 25, 2006, Congresswoman Ros-Lehtinen introduced H.R. 5877, a bill to amend the Iran and Libya Sanctions Act of 1996 (104–172), which included provisions that would extend the sanctions, including import sanctions, until September 2006. On July 26, 2006, Chairman Thomas and Chairman Hyde exchanged letters acknowledging the jurisdiction of the Committee on Ways and Means and its agreement to forgo consideration of the bill. On July 26, 2006, the legislation passed the House under suspension of the rules by voice vote. On July 31, 2006, the bill passed the Senate without amendment by unanimous consent. It was signed into law by the President on August 4, 2006 (P.L. 109–267). On September 27, 2006, Congresswoman Ros-Lehtinen introduced H.R. 6198, the Iran Freedom Support Act, which included provisions that would extend and modify

import sanctions. On September 27, 2006, Chairman Thomas and Chairman Hyde exchanged letters acknowledging the jurisdiction of the Committee on Ways and Means and its agreement to forgo consideration of the bill because several amendments supported by the Committee would be included in the bill. On September 28, 2006, the legislation passed the House under suspension of the rules. On September 30, 2006, the bill passed the Senate without amendment by unanimous consent. It was signed into law by the President on September 30, 2006 (P.L. 109–293).

*k. Marine Mammal Protection Acts Amendments of 2006 and Polar Bears*

On October 18, 2005, Committee on Resources Chairman Richard Pombo introduced H.R. 4075, which contained provisions addressing import restrictions related to Polar Bears and marine mammals. On July 13, 2006, Chairman Thomas and Chairman Pombo exchanged letters acknowledging the jurisdiction of the Committee on Ways and Means and its agreement to forgo consideration of the bill. On July 17, 2006, the legislation passed the House under suspension of the rules by voice vote. On December 6, 2006, the bill passed the Senate with an amendment by unanimous consent.

*l. Saudi Resolution and Israel Resolution*

On March 29, 2006, Subcommittee on Trade Chairman E. Clay Shaw introduced H. Con. Res. 370, expressing the sense of the Congress that Saudi Arabia should fully live up to its WTO commitments and end all aspects of any boycott on Israel. On April 5, 2006, the legislation passed the House under suspension of the rules by voice vote. No further action was taken.

*m. Stevens-Inouye International Fisheries Monitoring and Compliance Legacy Act of 2006*

On July 27, 2006, Committee on Resources Chairman Richard Pombo introduced H.R. 5946, the Stevens-Inouye International Fisheries Monitoring and Compliance Legacy Act of 2006, which would amend the Magnuson-Stevens Fishery Conservation and Management Act to authorize activities to promote improved monitoring and compliance for high seas fisheries or fisheries governed by international fishery management agreements. The bill also included provisions related to trade sanctions. On September 20, 2006, Chairman Thomas and Chairman Pombo exchanged letters acknowledging the jurisdiction of the Committee on Ways and Means and its agreement to forgo consideration of the bill. On September 27, 2006, the legislation passed the House under suspension of the rules by voice vote. On December 7, 2006, the bill passed the Senate with an amendment by unanimous consent.

*n. Postal Accountability and Enhancement Act of 2006*

On December 7, 2006, Committee on Government Reform Chairman Tom Davis introduced H.R. 6407, the Postal Accountability and Enhancement Act of 2006, which contained provisions addressing customs issues related to postal services. On December 7, 2006, Chairman Thomas and Chairman Davis exchanged letters acknowledging the jurisdiction of the Committee on Ways and Means and its agreement to forgo consideration of the bill. On December 8,

2006, the legislation passed the House under suspension of the rules by voice vote. On December 9, 2006, the bill passed the Senate without amendment by unanimous consent. It was signed into law by the President on December 20, 2006.<sup>7</sup>

*o. Jurisdiction of the Committee on Ways and Means*

On January 4, 2005, the House adopted the Rules for the 109th Congress, H. Res. 5, which modified the jurisdiction of the Committee on Ways and Means as stated in House Rule X from “(1) Customs, collections districts, . . .” to “(1) Customs revenue, collection districts, . . .” This change conforms the Committee’s jurisdiction to the revenue authority defined in the Homeland Security Act of 2002.

### C. LEGISLATIVE REVIEW OF HEALTH ISSUES

#### 1. BILLS ENACTED INTO LAW DURING THE 109TH CONGRESS

*a. Deficit Reduction Act of 2005 (P.L. 109–171)*

On February 1, 2006, the House of Representatives approved the Conference Report for S. 1932, the Deficit Reduction Act of 2005 (DRA), to reduce spending in a number of federal programs falling under the jurisdiction of the Committee on Ways and Means, including Medicare. The House originally passed the Conference Report on December 19, 2005. The Senate made technical changes before passing it on December 21, 2005. The House reconsidered and passed the conference report on February 1, 2006, by a vote of 216–214. The President signed the bill into law on February 8, 2006 (P.L. 109–171).

Title V of the DRA, Subtitles A–D, contains Medicare-related provisions that result in net savings to the Medicare program of approximately \$6 billion during fiscal years 2006–2010. Specifically, Medicare savings are achieved by requiring more affluent seniors to contribute a higher percentage of care costs under Medicare Part B, reducing waste by paying only for necessary repairs and maintenance for durable medical equipment, freezing home health payment rates for 2006, clarifying the computation of disproportionate share inpatient hospital payments, and implementing payment reforms for imaging and ambulatory surgical centers.

Other Medicare-related provisions of the DRA expand requirements for hospital quality reporting, include an additional year in the transition period for the 75 percent rule for inpatient rehabilitation facilities under Part A, provide an update to payment rates for physician services to prevent payment cuts, and provide a 1.6 percent update to end-stage renal disease facilities. Also, the DRA developed a strategic plan for physician investment in specialty hospitals, established a post-acute care demonstration program to study outcomes following hospitalizations, and provided more focused post-acute treatment and payments.

In addition, H.R. 3971 reduced bad debt payments to skilled nursing facilities for non-dually eligible Medicare beneficiaries from 100 percent to 70 percent; tied home health payments to quality reporting in 2007 and required MedPAC to submit a report on value-

<sup>7</sup> At the time of printing, the Public Law number for H.R. 6407 was not available.



based purchasing for home health services no later than June 1, 2007; increased the phase-out of risk adjustment budget neutrality in determining payments to Medicare Advantage plans and established a PACE Provider Grant program.

Finally, the DRA prevents physician payment cuts in 2006 by providing a freeze in payment rates for physician services.

*b. Qualified Individuals, Transitional Medical Assistance (TMA), and Abstinence Programs Extension and Hurricane Katrina Unemployment Relief Act of 2005 (Public Law No: 109-91)*

H.R. 3917 was introduced on October 6, 2006, by Rep. Nathan Deal, passed the House under suspension of the rules by voice vote on October 6, 2005, and passed the Senate October 7, 2005. It was signed into law on October 20, 2005 (P.L. 109-91). H.R. 3971 extended the Transitional Medical Assistance (TMA) program, which continues Medicaid for families leaving Welfare for work, through December 31, 2006; the QI-1 program, through which State Medicaid programs help low-income seniors pay Medicare Part B premiums, through September 30, 2007 and extends the Abstinence Education program through December 31, 2005.

H.R. 3971 also provided \$500 million in federal unemployment funds to disaster States to help them pay regular unemployment benefits (\$400 million to Louisiana, \$85 million to Mississippi, and \$15 million to Alabama). Funds were divided among states according to their share of expected increased unemployment benefit payments attributable to Hurricane Katrina. It also provided all states the flexibility to use current Federal unemployment administrative funds to assist Katrina victims in need of unemployment benefits.

In order to offset these new costs, H.R. 3971 prohibited Medicare (in 2007 and beyond) and Medicaid (in 2006 and beyond) coverage of Food and Drug Administration approved drugs to treat erectile dysfunction.

*c. Tax Relief and Health Care Act of 2006 (H.R. 6111)*

On December 8, 2006, the House of Representatives agreed with amendments to the Senate amendment by a vote of 367-45. On December 9, 2006, the Senate agreed to the House amendments and passed H.R. 6111, and the bill was signed into law by the President on December 20, 2006.<sup>8</sup> Division B of H.R. 6111, the Tax Relief and Health Care Act of 2006 (TRHCA) (Engrossed Amendment as agreed to by the House of Representatives) contains Medicare and other related health provisions. Specifically, the Medicare-related provisions of TRHCA improve Medicare quality and provider payments, protect Medicare beneficiaries, and improve Medicare program integrity efforts.

Titles I to III of Division B of the TRHCA contain Medicare-related provisions that improve the functioning of the Medicare program, and are likely to result in a net savings to the Medicare program over 5 years. Specifically, the act provides a freeze in physician payment rates, and 1.5 percent in bonus payments for quality measure reporting, which will ensure both continued beneficiary access to care and improve the quality of care. Further, a 1 year 1.6 percent update is provided to dialysis facilities, and expiring

<sup>8</sup> At the time of printing, the Public Law number for H.R. 6111 was not available.

provisions related to rural health care are extended. Voluntary reporting of quality measures by hospital outpatient departments and ambulatory surgical centers will begin in 2009, and care management of anemia patients will be improved through better reporting of anemia indicators. Also, a post-payment review process will be instituted under the competitive acquisition program.

Other Medicare-related provisions of the TRHCA protect beneficiaries through a 1 year extension in the therapy exceptions process, vaccine administration under the new Medicare prescription drug-benefit program, an Office of Inspector General study of medical events that should never occur, and a medical home demonstration program.

In addition, the TRHCA maintains and improves Medicare program integrity through the expansion of the recovery auditor program to all States by 2010, which identifies and returns overpayments to Medicare. Although application of a budget rule by the Congressional Budget Office (CBO) suggests that this provision will result in increased costs to the Medicare program, the CBO also recognized that the recovery audit contractor provision will likely result in a net reduction in Medicare spending, and the Committee estimates that the provision should save approximately \$8 billion over 5 years. Also, the TRHCA provides funding updates for a 4 year period using the consumer price index for the Health Care Fraud and Abuse Control Account.

## 2. HEALTH CARE PROPOSALS

### *a. Health Opportunity Patient Empowerment Act of 2006 (H.R. 6134)*

Representatives Eric Cantor (R-VA) and Paul Ryan (R-WI) introduced H.R. 6134 on September 21, 2006. The bill was ordered favorably reported by the Committee on Ways and Means, as amended, on September 29, 2006 by a vote of 24–14. The House did not consider the bill.

The bill amends the Internal Revenue Code of 1986 to expand health insurance coverage through the use of high deductible health plans in conjunction with health savings accounts (HSAs) and to further encourage their use. Specifically, H.R. 6134 (1) allows employees to fund HSAs with Flexible Spending Account (FSA) and Health Reimbursement Arrangement (HRA) Funds; (2) repeals the annual deduction limit on HSA contributions; (3) requires the Secretary to announce contribution and deductible adjustments by June 1 of each year; (4) expands contribution limits for part-year coverage; (5) allows additional employer contributions for non-highly compensated employees; and (6) permits a onetime transfer from individual retirement accounts to HSAs.

### *b. Health Information Technology Promotion Act of 2006 (H.R. 4157)*

H.R. 4157 was introduced on October 27, 2005 by Representative Nancy Johnson, and was ordered favorably reported by both the Ways and Means Committee and the Energy and Commerce Committee on July 26, 2006. It was passed on the House floor on July 27, 2006 by recorded vote of 270–148. H.R. 4157 would promote a better health information system by providing for the coordination,

planning and interoperability of health information technology, the updating of transaction standards and codes and the promotion of health information technology to better coordinate health care.

### 3. OTHER HEALTH MATTERS

#### *a. Full Committee Hearings*

##### *i. Health Savings Accounts*

On June 28, 2006, the full Committee on Ways and Means held a hearing on Health Savings Accounts.

##### *ii. Implementation of the Medicare Drug Benefit*

On June 14, 2006, the full Committee on Ways and Means held a hearing to receive testimony concerning the implementation of the Medicare prescription drug benefit, beneficiary enrollment and lessons learned since the initial enrollment deadline of May 15.

#### *b. Subcommittee Hearings*

##### *i. Emergency Care*

On July 27, 2006, the Subcommittee held a hearing to receive testimony from emergency care professionals and others concerning emergency care.

##### *ii. Price Transparency*

On July 18, 2006, the Subcommittee held a hearing to receive testimony from health care professionals and academics concerning price transparency.

##### *iii. Medicare Reimbursement of Physician-Administered Drugs*

On July 13, 2006, the Subcommittee held a hearing to receive testimony from the Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services, the Medicare Payment Advisory Commission, the U.S. Government Accountability Office, and other health professionals concerning Medicare reimbursements of physician-administered drugs.

##### *iv. Continuation on Implementation of the Medicare Drug Benefit*

On May 4, 2006, the Subcommittee held a hearing to receive testimony from the Honorable Henry Waxman and health care professionals concerning implementation of the Medicare drug benefit.

##### *v. Implementation of the Medicare Drug Benefit*

On May 3, 2006, the Subcommittee held a hearing to receive testimony from the Centers for Medicare and Medicaid Services and health care professionals concerning implementation of the Medicare drug benefit.

##### *vi. Health Care Information Technology*

On April 6, 2006, the Subcommittee held a hearing to receive testimony from the U.S. Department of Health and Human Services and others concerning the development and use of health care information technology.

*vii. Long-Term Acute Care Hospitals*

On March 15, 2006, the Subcommittee held a hearing to receive testimony from the Centers for Medicare and Medicaid Services, the Medicare Payment Advisory Commission, and health care professionals concerning Medicare payment and coverage policies for long-term acute care hospitals.

*viii. MedPAC's March Report on Medicare Payment Policies*

On March 1, 2006, the Subcommittee held a hearing to receive testimony from the Medicare Payment Advisory Commission and [health care professionals] concerning Medicare payment policies.

*ix. Competition in the FEHB Program*

On December 2, 2005, the Subcommittee held a field hearing in Milwaukee, Wisconsin to receive testimony from the U.S. Government Accountability Office, and health care professionals and others concerning the Federal Employees Health Benefits Program.

*x. Gainsharing*

On October 7, 2005, the Subcommittee held a hearing to receive testimony from the U.S. Department of Health and Human Services and health care professionals concerning gainsharing between hospitals and physicians.

*xi. Medicare Value-Based Purchasing for Physicians Act*

On September 29, 2005, the Subcommittee held a legislative hearing to receive testimony from the Centers for Medicare and Medicaid Services and health care professionals concerning the Medicare Value-Based Purchasing for Physicians Act.

*xii. Health Care Information Technology*

On July 27, 2005, the Subcommittee held a hearing to receive testimony from the U.S. Department of Health and Human Services and health care professionals concerning health care information technology, and the approach being taken by the Administration to speed the adoption of health IT and areas where congressional involvement can further these efforts.

*xiii. Value-Based Purchasing for Physicians Under Medicare*

On July 21, 2005, the Subcommittee held a hearing to receive testimony from the U.S. Department of Health and Human Services and health care professionals concerning value-based purchasing for physicians under Medicare. The hearing focused on developments since the last Subcommittee hearing in March on physician payments and value-based purchasing.

*xiv. Post-Acute Care*

On June 16, 2005, the Subcommittee held a hearing to receive testimony from the Centers for Medicare and Medicaid Services, the Medicare Payment Advisory Commission, U.S. Government Accountability Office, and health care professionals concerning post-acute care. The hearing focused on current financing for post-acute care services in Medicare; the services available across the various post-acute settings; the patient assessment instruments used in each settings and the commonalities between them; and prospects

and suggestions for moving ahead with a common patient assessment tool and more rational payment system based on beneficiary need rather than institutional setting.

*xv. Long Term Care*

On April 19, 2005, the Subcommittee held a hearing to receive testimony from the Congressional Budget Office and health care professionals concerning long term care. The hearing focused on current financing for long term care services; the range of services available in the continuum of care from home- and community-based services to nursing home care; private long term care insurance options, including the Long Term Care Partnership programs; and the challenges ahead in financing needed services for an aging population.

*xvi. Managing the Use of Imaging Services*

On March 17, 2005, the Subcommittee held a hearing to receive testimony from the Medicare Payment Advisory Commission and health care professionals concerning managing the use of imaging services. The hearing focused on on MedPAC's recommendations for managing the use of imaging services, especially the need to require physicians to meet quality standards as a condition of payment.

*xvii. Measuring Physician Quality and Efficiency of Care for Medicare Beneficiaries*

On March 15, 2005, the Subcommittee held a hearing to receive testimony from the Centers for Medicare and Medicaid Services and health care professionals concerning measuring physician quality and efficiency of care for Medicare. The hearing focused on identifying the steps being taken by CMS and others to measure quality and efficiency of physician care.

*xviii. Physician-Owned Specialty Hospitals*

On March 08, 2005, the Subcommittee held a hearing to receive testimony from the Medicare Payment Advisory Commission, the Centers for Medicare and Medicaid Services, and health care professionals concerning physician-owned specialty hospitals.

*xix. Medicare Payments to Physicians*

On February 10, 2005, the Subcommittee held a hearing to receive testimony from the U.S. Government Accountability Office, the Medicare Payment Advisory Commission, and health care professionals concerning Medicare payments to physicians.

#### D. LEGISLATIVE REVIEW OF SOCIAL SECURITY ISSUES

##### 1. H. RES.170 REGARDING CLAIMS MADE BY THE PRESIDENT ON THE SOCIAL SECURITY TRUST

On March 17, 2005, Rep. Dennis Kucinich introduced H. Res. 170, which was referred to the House Committee on Ways and Means the same day. On April 25, 2005, the Committee considered the resolution during a markup session and ordered it to be reported adversely by a vote of 22–1. The measure was reported adversely on April 27, 2005 (H. Rept. 109–58). The resolution was

placed on the House Calendar, Calendar No. 29. The resolution requested the President to transmit to the House of Representatives information in his possession providing specific evidence for the following statement he made on February 16, 2005, at a meeting in Portsmouth, New Hampshire: "And by the way, there is not a Social Security trust." The Committee found that when the 11 words were read in the context of the President's remarks, it was clear that the President was discussing the pay-as-you-go nature of the Social Security program and the difference between a government and private-sector trust.

## 2. GROWING REAL OWNERSHIP FOR WORKERS ACT OF 2005

On July 14, 2005, Subcommittee on Social Security Chairman McCrery introduced H.R. 3304, the "Growing Real Ownership for Workers (GROW) Act of 2005." The bill was referred to the Committee on Ways and Means, Subcommittee on Social Security on July 20, 2005. The Committee did not act on the bill.

H.R. 3304 would have established "GROW" accounts for all workers under the age of 55 at the beginning of 2005, unless they chose not to have an account. An independent board would have been appointed to manage and administer GROW accounts. Each year, after any "surplus" Social Security taxes (Social Security tax revenues in excess of the amount needed to pay benefits and administrative costs) were credited to the Social Security Trust Funds, the Secretary of the Treasury would have distributed an amount equal to the surplus to the independent board, which would then deposit the worker's share of the surplus in his or her GROW account. The worker's share of the surplus would have equaled a specified percentage of the worker's earnings subject to the payroll tax. The percentage would have been determined each year based on the relationship between the amount of the surplus (if any) and the collective amount of wages and self employment income subject to Social Security taxes for workers participating in GROW accounts.

The GROW account deposits would have been automatically invested in a fund of marketable U.S. Treasury securities. At the beginning of 2009, the independent board would have submitted a plan to Congress to offer workers other investment options. The board's plan would have gone into effect automatically, unless Congress disapproved it.

Upon retirement, GROW account owners would have received a benefit from their accounts and a benefit from the Social Security Trust Funds. The benefit from the account would have equaled the monthly, inflation-adjusted lifetime payment that could be provided from the account at retirement had it been invested in the Treasury securities fund. In the case of married individuals, this calculation would have also included a monthly payment to the surviving spouse. The rest of the individual's benefit would have been paid from the Social Security Trust Funds. Retirees would have been required to take enough of the account balance in the form of lifetime payments to ensure combined payments from the account and the trust funds equal at least 100 percent of the poverty level. Any remaining account balance could have been withdrawn as the retiree chose.

No withdrawals would have been permitted from the account prior to the time the individual started collecting Social Security

retirement benefits. Upon the death of an account owner, the assets would have been transferred to the account of an eligible spouse and used to pay widow(er)'s Social Security benefits. In the absence of a spouse, the account would have been transferred to the worker's other heirs.

The Social Security actuaries evaluated H.R. 3304 and determined that it would have extended the solvency of the Social Security Trust Funds by two years (from 2041 to 2043) under the intermediate assumptions of the 2005 Social Security Trustees Report.

### 3. BORDER PROTECTION, ANTITERRORISM, AND ILLEGAL IMMIGRATION CONTROL ACT OF 2005

On December 6, 2005, Chairman Sensenbrenner of the Committee on the Judiciary introduced H.R. 4437, the "Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005." The bill was referred on the same day to the Committee on the Judiciary, in addition to the Committee on Homeland Security. On December 13, 2005, the bill was referred jointly and sequentially to the Committee on Ways and Means and the Committee on Education and the Workforce until December 14, 2005, at which time the committees were discharged from consideration. The House approved the bill on December 16, 2005 by a vote of 239-182. The Senate did not take up the bill, but instead passed its own bill, S. 2611, the "Comprehensive Immigration Reform Act of 2006;" however, the Senate did not send its bill to the House.

H.R. 4437 would have enhanced physical security at the U.S. borders and interior enforcement of immigration laws. The Committee on Ways and Means shared jurisdiction with the Committee on the Judiciary on a measure to create a mandatory employment eligibility verification system that would have been operated by the Secretary of Homeland Security in collaboration with the Commissioner of Social Security. This system would have replaced the current verification system, the "Basic Pilot" program, which employers may use voluntarily. This bill would have required employers to verify all new hires beginning 2 years after enactment and all existing employees not previously verified no later than 6 years after enactment.

### 4. SOCIAL SECURITY TRUST FUNDS RESTORATION ACT OF 2006

On December 6, 2006, Senator Charles Grassley introduced S. 4091, the "Social Security Trust Funds Restoration Act of 2006," along with co-sponsor Senator Baucus. The bill passed the Senate without amendment by unanimous consent on December 7, 2006 and was received by the House the same day. On December 9, 2006, Chairman Thomas asked for unanimous consent that the Committee on Ways and Means be discharged from further consideration of the Senate bill and that it be immediately considered in the House. The House passed the legislation without objection.<sup>9</sup>

S. 4091 corrects bookkeeping errors associated with the Social Security Administration's voluntary program to withhold income taxes from Social Security benefit payments. The Commissioner of Social Security and the Fiscal Assistant Secretary of the Department of the Treasury sent a joint letter, along with draft legislative

<sup>9</sup> At the time of printing, the President had not signed S. 4091 into law.

language, to the House and Senate explaining that the amount of taxes withheld from beneficiaries was accurate, but that the Social Security Administration made substantial overpayments to the Internal Revenue Service for tax years 1999–2005. The Internal Revenue Service reimbursed the Social Security Trust Funds for the overpayments plus interest for years 2002–2005, but could not reimburse the trust funds for years 1999–2001 without the authority provided in the legislation due to the 3 year statute of limitation on refund claims.

## E. LEGISLATIVE REVIEW OF HUMAN RESOURCES ISSUES

### 1. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

#### *a. Reauthorization of the Temporary Assistance for Needy Families Program*

H.R. 240, the “Personal Responsibility, Work, and Family Promotion Act of 2005,” was introduced on January 4, 2005 by Representative Deborah Pryce (R-OH), with Subcommittee on Human Resources Chairman Herger and full Committee Chairman Thomas as original cosponsors. H.R. 240 would have extended and made improvements to Temporary Assistance for Needy Families (TANF) and related programs including child care, child support enforcement, and child protection, and reflected an updated version of legislation approved by the House of Representatives during the 107th (H.R. 4737) and 108th (H.R. 4) Congresses. The TANF program, first authorized by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193, often called the 1996 welfare reform law), provides assistance to about 2 million low-income families through a program of temporary cash benefits, work supports, and other assistance. The 1996 welfare reform law authorized the TANF program through September 30, 2002. In the absence of agreement on a long-term reauthorization bill, the 107th, 108th and 109th Congresses approved a total of twelve short-term extensions of TANF and related programs (see the section on Extensions of the Temporary Assistance for Needy Families Program below for more detailed information).

Titles I and II of H.R. 240 would have extended the authorization of the TANF block grant through FY2010 at its current level of \$16.6 billion per year, and would have increased funding for the Child Care and Development Block Grant (for further detail, see section on Child Care, below). Title I also would have amended the purposes of TANF to focus additional efforts on improving child well-being, and would have focused additional funding specifically on promoting healthy marriage and responsible fatherhood. The legislation would have specified universal engagement and self-sufficiency plan requirements for all families receiving cash assistance. H.R. 240 would have gradually increased the overall State work participation rate requirement to 70 percent by FY2010 and raised the total number of required hours in certain activities, so that more adults on welfare would have been expected to engage in a total of 40 hours per week of work (24 hours) and other productive activities (16 hours) in exchange for their welfare benefit checks. The legislation also would have eliminated the separate and higher State work participation rate requirement applicable to two-parent families, and updated the credit for net caseload reduc-



tion used in calculating the effective work rate that States must achieve to satisfy Federal requirements. Title III of H.R. 240 would have amended the child support enforcement program, as described in further detail under the Child Support Enforcement section below. Title IV would have extended and expanded waiver authority for Federal child protection programs administered under Title IV-E of the Social Security Act. Title V would have required review of an increased number of disability determinations before making benefit payments under the Supplemental Security Income program. Title VI would have authorized demonstration projects to allow States additional flexibility to coordinate multiple Federal programs that provide assistance to low-income families. Titles VII and VIII would have reauthorized the abstinence education and transitional medical assistance programs through FY2010.

At a February 10, 2005 Subcommittee hearing, witnesses testified about welfare reauthorization proposals and related programs. Witnesses included a representative from the U.S. Department of Health and Human Services (HHS), program administrators, and policy experts. During a February 17, 2005 full Committee hearing on the President's FY2006 budget proposals, HHS Secretary Leavitt discussed the TANF program and reauthorization proposals.

H.R. 240 was considered in the Subcommittee on Human Resources on March 15, 2005 and was reported favorably to the full Committee with amendment. Provisions from H.R. 240 were included in the Committee on Ways and Means' recommendations to the Committee on the Budget for inclusion in budget reconciliation legislation. The recommendations were reported out of the full Committee as amended by a recorded vote of 22 to 17 on October 26, 2005. The recommendations were included in Title VIII of H.R. 4241, the Deficit Reduction Act of 2005. On November 18, 2005, the House amended S. 1932, the Deficit Reduction Act of 2005, with the text of H.R. 4241 and passed the bill on a vote of 217 to 215. The conference report for S. 1932 was adopted in the House by a vote of 212 to 206 on December 19, 2005. On December 21, 2005, the Senate voted 51 to 50 to approve an amended version of the conference report and sent S. 1932 back to the House for final action. On February 1, 2006 the House passed the amended conference report on S. 1932 by a vote of 216 to 214. The bill was signed into law on February 8, 2006 (P.L. 109-171).

The Deficit Reduction Act of 2005 extended the authorization of the TANF block grant through FY2010, with block grant funding for States and territories maintained at the current level of \$16.6 billion per year; TANF supplemental grant funding was continued at current law levels through FY2008. The Act also provided for a total of \$1 billion in additional funding for mandatory child care, through FY2010. The Deficit Reduction Act of 2005 also updated the caseload reduction credit, effective October 1, 2006, to provide States with credit towards their work participation requirements based on caseload declines that have occurred since FY2005. The law also provided \$150 million in each of fiscal years 2006 through 2010 to the Secretary of Health and Human Services (HHS) for making healthy marriage promotion, responsible fatherhood, and related grants.

*b. Extensions of the Temporary Assistance for Needy Families Program*

H.R. 1160, the Welfare Reform Extension Act of 2005, reauthorized the TANF program through June 30, 2005. The legislation was introduced on March 8, 2005, was passed by the House on a voice vote on March 14, 2005, was agreed to by unanimous consent by the Senate without amendment on March 15, 2005, and was signed into law by the President on March 25, 2005 (P.L. 109-4).

A second TANF extension, H.R. 3021, the TANF Extension Act of 2005, was introduced on June 22, 2005 to extend the program through September 30, 2005. The House passed the extension by a voice vote on June 29, 2005, the Senate agreed without amendment by unanimous consent on June 30, 2005, and the President signed H.R. 3021 into law on July 1, 2005 (P.L. 109-19).

H.R. 3672, the TANF Emergency Response and Recovery Act of 2005 (P.L. 109-68) included an extension of the TANF program through December 31, 2005. (Information about additional provisions in H.R. 3672 is provided in the Emergency Legislation in Response to Hurricane Katrina section below.)

H.R. 4635, the TANF and Child Care Continuation Act of 2005, was introduced on December 18, 2005. This legislation extended TANF and related programs through March 31, 2006. The House passed the bill by voice vote on December 19, 2005. H.R. 4635 passed the Senate by unanimous consent on December 22, 2005, and the President signed the bill into law on December 30, 2005 (P.L. 109-161).

*c. Emergency Legislation in Response to Hurricane Katrina*

The TANF Emergency Response and Recovery Act of 2005, H.R. 3672, was introduced on September 7, 2005 to provide additional TANF and related assistance to families affected by Hurricane Katrina. The legislation provided additional resources and flexibility to serve low-income families affected by the hurricane and who remained in Louisiana, Mississippi and Alabama, as well as those who fled from hurricane-affected areas to other States. The bill was passed in the House by voice vote on September 8, 2005, was passed in the Senate by unanimous consent on September 15, 2005, and was signed into law by the President on September 21, 2005 (P.L. 109-68).

On October 6, 2005 the Social Services Emergency Relief and Recovery Act of 2005, H.R. 3971, was introduced and passed by voice vote in the House. To help recovery after hurricanes affecting the Gulf States, Title II of the bill directed the Secretary of Labor to transfer from the Federal unemployment account: (1) \$15 million to the account of Alabama in the Unemployment Trust Fund; (2) \$400 million to the account of Louisiana in the Unemployment Trust Fund; and (3) \$85 million to the account of Mississippi in the Unemployment Trust Fund. It also authorized any State to assist in the administration of unemployment benefit claims on behalf of any other State, if a major disaster was declared in another State. The bill, as amended, passed the Senate by unanimous consent on October 7, 2005 and was signed by the President on October 20, 2005 (P.L. 109-91).

On December 19, 2005, the House passed the conference report on H.R. 2863, the Department of Defense Appropriations Act of

2006, by a vote of 308 to 106 with two Members voting present. Section 302 of the conference report included a provision to provide the U.S. Secretary of HHS with authority to waive certain requirements under the Child Care and Development Block Grant for States affected by Hurricane Katrina or States serving significant numbers of individuals adversely affected by a Gulf hurricane disaster. The conference report passed the Senate on December 21, 2005 by a vote of 93 to 0 and was signed into law by the President on December 30, 2005 (P.L. 109–148).

*d. Tenth Anniversary of the 1996 Welfare Reforms*

H. Con. Res. 438, a resolution expressing the sense of the Congress that “continuation of the welfare reforms provided for in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 should remain a priority” was introduced by Representative E. Clay Shaw (R–FL) on June 27, 2006 and was passed by the House by a voice vote on July 18, 2006. The resolution expressed the sense of the Congress that increasing success in moving families from welfare to work, as well as in promoting healthy marriage and other means of improving child well-being, as promoted by the welfare reforms in the 1996 welfare reform law, are very important Government interests and should remain priorities in the years ahead for Federal and State agencies responsible for assisting needy families and others at risk of poverty and dependence on government benefits.

## 2. CHILD CARE

H.R. 240, the “Personal Responsibility, Work, and Family Promotion Act of 2005,” would have increased mandatory funds for the Child Care and Development Block Grant under the Committee on Ways and Means’ jurisdiction from \$2.717 billion in 2005 to \$2.917 billion for each of fiscal years 2006 through 2010, for a total increase of \$1 billion over the 5-year period.

H.R. 4241, the “Deficit Reduction Act of 2005,” which included legislation to reauthorize TANF and related programs, would have increased mandatory funds for the Child Care and Development Block Grant by a total of \$500 million over a 5-year period and would have increased the share of TANF funds that States may transfer to the Child Care and Development Block Grant and Social Services Block Grant.

On February 1, 2006, the House passed the amended conference report on S. 1932, the Deficit Reduction Act of 2005, and the bill was signed into law on February 8, 2006 (P.L. 109–171). P.L. 109–171 increased mandatory funds for the Child Care and Development Block Grant under the Committee on Ways and Means’ jurisdiction from \$2.717 billion in 2005 to \$2.917 billion for each of fiscal years 2006 through 2010, for a total increase of \$1 billion over the 5-year period.

## 3. CHILD SUPPORT ENFORCEMENT

Title III of H.R. 240, the “Personal Responsibility, Work, and Family Promotion Act of 2005,” would have amended the child support enforcement program to (1) provide matching Federal funds to States that pass through a limited amount of child support to families receiving cash welfare benefits, (2) allow States to distribute all

child support collected to former welfare families, and (3) impose a \$25 annual user fee on certain child support cases, among other changes.

Title VIII of H.R. 4241, the “Deficit Reduction Act of 2005,” included a number of child support provisions, such as providing matching Federal funds to States that pass through a limited amount of child support to families receiving cash welfare benefits, allowing States to distribute all child support collected to former welfare families, and imposing a \$25 annual user fee on certain child support cases. In addition, Title VIII would have reduced the rate of Federal reimbursement for State child support administrative expenses from 66 percent to 50 percent by 2010 in order to make the rate consistent with other major benefit programs.

On February 1, 2006, the House passed the amended conference report on S. 1932 and the bill was signed into law on February 8, 2006 (P.L. 109–171). The bill included provisions to provide matching Federal funds to States that pass through a limited amount of child support to families receiving cash welfare benefits, allow States to distribute all child support collected to former welfare families, and impose a \$25 annual user fee on certain child support cases. In addition the legislation included provisions to prevent States from receiving Federal matching reimbursement for spending Federal child support incentive payments and to reduce the reimbursement rate for paternity establishment costs from 90 percent to 66 percent.

#### 4. SUPPLEMENTAL SECURITY INCOME

Title V of H.R. 240 would have amended Title XVI of the Social Security Act to require review of a specified share of State agency disability determinations before making benefit payments under the Supplemental Security Income (SSI) program. Title VIII of H.R. 4241, the “Deficit Reduction Act of 2005,” which was introduced on November 7, 2005, included this SSI disability determination review provision from H.R. 240. It also included a provision to improve program consistency in the distribution of lump sum SSI benefit payments. The provision lowered the threshold for requiring lump sum payment of past-due benefit payments from the equivalent of 12 months of maximum benefit payments to the equivalent of 3 months of such payments. A subsequent version of this legislation (S. 1932) was signed into law on February 8, 2006 (P.L. 109–171), which included both SSI provisions, contributing to improved program integrity.

H.R. 804, a bill “To exclude from consideration as income certain payments under the national flood insurance program,” amended the National Flood Insurance Act of 1968 to declare that assistance provided under a program for flood mitigation activities with respect to a property shall not be considered income or a resource of the owner of the property when determining eligibility for or benefit levels under any income assistance or resource-tested program (that is, including SSI) that is funded in whole or in part by a Federal agency or by appropriated Federal funds. The bill passed the House by voice vote on July 12, 2005, was passed by the Senate without amendment on September 8, 2005, and was signed by the President on September 20, 2005 (P.L. 109–64). The Committee did not act on the bill, although portions of the bill fell within the Com-

mittee's jurisdiction due to its affecting eligibility for and benefit levels under certain programs under the Committee's jurisdiction, including SSI.

H.R. 1815, the National Defense Authorization Act for FY2006, passed the House on April 25, 2005 by a vote of 390 to 39. The bill was amended and passed in the Senate by unanimous consent on November 15, 2005. As passed in the Senate, H.R. 1815 included an SSI provision affecting certain military families that include an individual being called to active duty. The provision would allow individuals in families that include an adult called to active duty status up to 24 months to regain to SSI eligibility without requiring another disability application. The conference report on H.R. 1815 included the SSI provision and was passed in the House on December 19, 2005 by a vote of 374 to 41. The Senate agreed to the conference report by voice vote on December 21, 2005 and the President signed the bill on January 6, 2006 (P.L. 109-163).

#### 5. CHILD PROTECTION, FOSTER CARE, AND ADOPTION

Title IV of H.R. 240 would have extended and expanded waiver authority for Federal child protection programs administered under Title IV-E of the Social Security Act. Title VIII of H.R. 4241 would have extended and expanded waiver authority for Federal child protection programs administered under Title IV-E of the Social Security Act. Title VIII of H.R. 4241 also included a provision that would have clarified the intent of Congress by restating longstanding eligibility requirements for Federal foster care and adoption assistance; in addition, the title included a provision that would have clarified the circumstances under which States may claim Federal administrative funds for certain children in or at risk of being placed in foster care. On February 1, 2006, the House passed the amended conference report on S. 1932 and the President signed the bill into law on February 8, 2006 (P.L. 109-171). Section 7401 of P.L. 109-171 provided \$20 million in each of fiscal years 2006 through 2010 for grants to each State's highest court to improve data collection and training related to child abuse and neglect cases. Section 7402 increased the mandatory funding available for the Title IV-B-2 Promoting Safe and Stable Families Program from \$305 million in FY2005 to \$345 million in FY2006. A provision to clarify the circumstances under which States may claim Federal administrative funds for certain children in or at risk of being placed in foster care was included in Section 7403. Section 7404 clarified the intent of Congress and restated longstanding eligibility requirements for Federal foster care and adoption assistance and included a provision to clarify the circumstances under which States may claim Federal administrative funds for certain children in or at risk of being placed in foster care.

On September 14, 2005 H.R. 3132, the "Children's Safety Act of 2005," passed the House by a vote of 371-52. Title V of the legislation would have required background checks and checks of national crime information databases and State child abuse registries before approval of foster or adoptive placements. Provisions in the legislation also would have eliminated the ability of any additional States to opt-out of Federal background check requirements restricting Federal support for the placement of children with foster or adoptive parents with serious criminal histories (while allowing those

States that currently opt-out of these requirements to continue to do so until October 1, 2008). The Committee did not act on the bill, portions of which affect foster care and adoption programs under the Committee's jurisdiction. On July 25, 2006 the House passed by voice vote the Senate-amended version of H.R. 4472, the Adam Walsh Child Protection and Safety Act of 2006 and the bill was signed into law on July 27, 2006 (P.L. 109-248). Title V of this act included provisions previously passed as part of H.R. 3132.

S. 1894, the Fair Access Foster Care Act of 2005, which amended Part E of Title IV of the Social Security Act to provide for the making of foster care maintenance payments to private for-profit agencies, was passed in the House by a vote of 408 to 1 on November 9, 2005 and was signed into law by the President on November 22, 2005 (P.L. 109-113).

On May 24, 2006 the House passed by voice vote H.R. 5403, the Safe and Timely Interstate Placement of Foster Children Act of 2006. H.R. 5403 was passed in the Senate by unanimous consent on June 23, 2006 and was signed into law by the President on July 3, 2006 (P.L. 109-239). The bill amended the Social Security Act to require that States establish a 60 day Federal deadline for completing interstate home studies but provides that through September 30, 2008, States can have up to a total of 75 days if, for example, they document circumstances beyond their control that prevented the home study from being completed within 60 days. The law also authorized incentive payments of \$1,500 for each interstate home study that a State completes within 30 days and encourages identification and consideration of in-State and out-of-State placement options as part of currently required permanency planning activities for children who will not be reunified with their parents. The bill required courts to notify any foster parents, pre-adoptive parents, and relative caregivers of a child in foster care of any court proceeding to be held concerning the child, strengthened the right of these individuals to be heard at permanency planning proceedings and required States to give children aging out of foster care a free copy of their health and education record.

H. Res. 959, a resolution recognizing and supporting the success of the Adoption and Safe Families Act of 1997 (P.L. 105-89) in increasing adoption and encouraging adoption throughout the year, was introduced by Representative Dave Camp on July 27, 2006. The House passed H. Res. 959 by voice vote under Suspension of the Rules on September 19, 2006.

On May 23, 2006 the Subcommittee held a hearing to review specific proposals to improve child protection services, including options for extending programs under the Subcommittee's jurisdiction such as the Promoting Safe and Stable Families (PSSF) and Child Welfare Services (CWS) programs. Following this hearing, on June 20, 2006, Chairman Wally Herger introduced H.R. 5640, the "Child and Family Services Improvement Act of 2006," which was cosponsored by Human Resources Subcommittee Ranking Member Jim McDermott and several other Committee Members. H.R. 5640 was considered and amended and then reported favorably by voice vote from the Committee on June 29, 2006. On July 25, 2006, the House amended S. 3525, the "Improving Outcomes for Children Affected by Meth Act of 2006," with the text of H.R. 5640 and passed the bill by voice vote. The Senate concurred to the House amendments

with an amendment to S. 3525 on September 20, 2006. The Senate-approved version of S. 3525, as amended, was adopted in the House by a voice vote on September 26, 2006 and the bill was signed into law on September 28, 2006 (P.L. 109–288). P.L. 109–288 made several improvements to the nation’s child protection system. The law included provisions to: (1) reauthorize the PSSF program through FY 2011 while authorizing \$345 million per year in mandatory funds and \$200 million per year in discretionary funds; (2) target resources to ensure children in foster care are visited by case-workers on at least a monthly basis and to assist regional partnerships in combating the effects of parental substance abuse, particularly methamphetamine abuse, on the child protection system; (3) improve the Child Welfare Services program; (4) reauthorize the Court Improvement Program through FY2011; (5) reauthorize and improve the Mentoring Children of Prisoners Program through FY2011; and (6) appropriate for FY2006 the additional \$40 million in mandatory funding provided under the P.L. 109–171 for the PSSF program.

On December 8, 2006, the House passed H.R. 6111, the Tax Relief and Health Care Act of 2006, by a vote of 367 to 45. Provisions in Title IV of the legislation require that each State plan for foster care and adoption assistance describe procedures the State has in effect for verifying the citizenship or immigration status of any foster child in State custody. The Senate passed H.R. 6111 on December 9, 2006 and the bill was signed into law on December 20, 2006.<sup>10</sup>

#### 6. UNEMPLOYMENT COMPENSATION

See the Emergency Legislation in Response to Hurricane Katrina section above regarding action on unemployment compensation provisions included in H.R. 3971, the Social Services Emergency Relief and Recovery Act of 2005 (P.L. 109–91).

#### 7. REPATRIATION

On July 26, 2006 the House passed by unanimous consent the Senate-amended version of H.R. 5865, the Returned Americans Protection Act of 2006. The President signed H.R. 5865 on July 27, 2006 (P.L. 109–250). The law amended Title XI of the Social Security Act to temporarily (through the end of FY2006) lift the \$1 million annual cap on the “Assistance for U.S. Citizens Returned from Foreign Countries” repatriation program to help meet the need for temporary assistance of U.S. citizens returning to the U.S. due to violence in Lebanon. The cost of this increase was offset by allowing States to use the child support program’s National Directory of New Hires to verify Food Stamp participants’ employment and wage information. The Secretary of HHS assured Ways and Means Chairman Thomas in writing that the HHS Inspector General will report to Congress by March 1, 2007 on how program funds were spent to assist those repatriating from Lebanon, including by providing a breakdown of administrative costs versus direct assistance such as travel and lodging expenses. This additional information will help Congress fulfill its responsibility to ensure the proper use of taxpayer funds.

<sup>10</sup> At the time of printing, the Public Law number for H.R. 6111 was not available.

## F. LEGISLATIVE REVIEW OF DEBT ISSUES

On April 28th, 2005, the House and Senate agreed to the conference report on H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, which included in it instructions to the Committee on Ways and Means to increase the statutory debt limit from \$8.184 trillion to \$8.965 trillion. The conference report (H. Rept. 109–62) was agreed to by the House by a vote of 214–211, and by the Senate by a vote of 52–47. As a result of the adoption of the FY2006 budget, H.J. Res. 47, a bill to increase the statutory limit on the public debt, was deemed passed in the House pursuant to House Rule XXVII. H.J. Res. 47, which increased the debt limit by \$781 billion to \$8.965 trillion, was passed by the Senate on March 16, 2006 without amendment by a Yea-Nay vote of 52–48, and was signed into law by the President on March 20, 2006 (P.L. 109–182).

**II. Oversight Review**

## A. OVERSIGHT AGENDA

COMMITTEE ON WAYS AND MEANS,  
U.S. HOUSE OF REPRESENTATIVES,  
*Washington, DC, February 2, 2005.*

Hon. TOM DAVIS,  
*Chairman, Committee on Government Reform,*  
*2157 Rayburn House Office Building, Washington, DC.*

Hon. ROBERT W. NEY,  
*Chairman, Committee on House Administration,*  
*1309 Longworth House Office Building, Washington, DC.*

DEAR CHAIRMAN DAVIS AND CHAIRMAN NEY: In accordance with the requirements of Clause 2 of Rule X of the rules of the House of Representatives, the following is a list of oversight hearings and other oversight-related activities, which the Committee on Ways and Means and its Subcommittees plan to conduct during the 109th Congress.

## FULL COMMITTEE

1. *Tax Reform.* The full Committee intends to hold hearings to examine proposals to reform Federal taxation.

2. *Fiscal Year 2006 and 2007 Budget Initiatives Regarding Taxes.* The full Committee intends to hold hearings to receive information regarding tax legislation proposed in the President's 2006 and 2007 budgets.

3. *Strengthening Social Security.* The full Committee intends to hold hearings to examine various issues affecting the well-being of individual recipients, the financial challenges facing Social Security, and options to address those challenges.

## SUBCOMMITTEE ON OVERSIGHT

1. *Internal Revenue Service Budget and Filing Season.* The Subcommittee intends to hold hearings in both 2005 and 2006 to review the Administration's budget request for the Internal Revenue Service (IRS) and the annual tax filing season. In particular, the



Subcommittee will review how the IRS is balancing enforcement efforts with taxpayer service and modernizing its computer systems.

2. *Improving IRS Administration of Tax Laws.* The Subcommittee will review proposals to improve the quality, efficiency, and fairness of IRS tax administration, including recently enacted legislation to improve IRS debt collection procedures. The Subcommittee will monitor new regulations or policies proposed or implemented by the IRS and to hold hearings or investigations as appropriate.

3. *Pension Benefit Guaranty Corporation.* The Subcommittee will examine developments facing defined benefit pension plans, and the current and future liability facing the Pension Benefit Guaranty Corporation (PBGC) that covers the pensions of approximately 44 million workers.

4. *Review of Tax Exempt Organizations.* The Subcommittee will continue to review tax exempt organizations and intends to hold hearings in coordination with the full Committee and other Subcommittees on the appropriate role of tax exempt organizations. The Subcommittee will review current law, the adequacy of IRS oversight and reporting requirements, and consider recommendations for reform. The Subcommittee will also explore the role of Internal Revenue Code (IRC) Section 527 organizations have played in political campaigns.

5. *Underground Economy.* The Subcommittee will review information concerning the underground economy, its size, growth trends, and implications for tax policy.

6. *Income Tax Compliance.* The Subcommittee will continue to monitor IRS efforts to assure compliance with individual and corporate tax laws, including its efforts to improve compliance in the Earned Income Tax Credit (EITC) program and in other areas of tax law compliance. The IRS conducted a pilot initiative in 2004 to test new enforcement techniques, and the Subcommittee plans to review the results of these efforts and any new IRS initiatives. In addition, the Subcommittee will monitor pertinent reports by IRS, Treasury, JCT, and the GAO on the tax gap or other compliance matters as such reports become available.

7. *Taxpayer Rights.* The Subcommittee will continue to monitor the implementation of taxpayer rights provisions in the IRS Reform and Restructuring Act (RRA 98) (P.L. 105-206) and subsequent taxpayer rights legislation and will evaluate new proposals to enhance taxpayer rights.

8. *Taxpayer Privacy.* The Subcommittee will examine compliance with taxpayer privacy issues under IRC Section 6103.

9. *Oversight of Drug Interdiction Efforts.* The Oversight Subcommittee will review the extent of federal drug interdiction activities under the current tax and trade laws administered by the IRS and in coordination with the U.S. Customs Service.

10. *Field Investigations and Hearings.* The Subcommittee will conduct such field investigations and hearings as Committee staffing and budget resources permit, and as are necessary for purposes of evaluating the effectiveness of and compliance with the programs and laws under the jurisdiction of the Committee on Ways and Means.

## SUBCOMMITTEE ON TRADE

1. *Bush Administration Trade Policy.* The Subcommittee intends to hold a hearing to give the Administration an opportunity to describe its trade policy for 2005 and respond to Member questions. The Subcommittee intends to work with the Administration under the terms of the Trade Act of 2002 (P.L. 107–210), given the expiration of Trade Promotion Authority (TPA) in 2005 unless the Administration requests renewal until 2007.

2. *World Trade Organization.* The Subcommittee intends to hold hearings on United States preparations for the December 2005 WTO Ministerial in Hong Kong and progress in the ongoing negotiations on the Doha Development Agenda, particularly with respect to agriculture, services, industrial tariffs, and development issues. The Subcommittee intends to continue its oversight over U.S. participation in the WTO in keeping with section 125 of the Uruguay Round Agreements Act (P.L. 103–465).

3. *Bilateral Free Trade Agreements with Central America and Bahrain.* The Subcommittee will continue its oversight of the negotiations for bilateral free trade agreements with Central America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic) and Bahrain. Now that these negotiations have concluded, the Subcommittee will continue to consult with the Administration and at the appropriate time will hold hearings on the agreements and consider implementing legislation under TPA processes.

4. *Bilateral and Regional Free Trade Agreements Under Negotiation.* The Subcommittee will continue its oversight and assess the status of negotiations for bilateral free trade agreements with countries for which the Administration has notified Congress of its intent to negotiate: Panama; the Andean countries (Colombia, Ecuador, Peru, and Bolivia); the Southern African Common Market (Botswana, Lesotho, Namibia, South Africa and Swaziland); Thailand; the United Arab Emirates; Oman; and the Free Trade Area of the Americas. When these negotiations are concluded, the Subcommittee expects to hold hearings on the agreements and will consider implementing legislation under TPA processes. In addition, the Subcommittee will explore whether other countries may be appropriate candidates for free trade agreements and will examine the effect on U.S. interests of free trade agreements or lesser bilateral agreements concluded by U.S. trading partners.

5. *Bilateral Free Trade Agreements Entered into Force.* The Subcommittee will continue its oversight to assess the status of agreements that have already been concluded and for which Congress has passed implementing legislation under TPA (Chile, Singapore, Australia, and Morocco).

6. *Miscellaneous Duty Suspensions and Technical Corrections to U.S. Trade Laws.* The Subcommittee intends to consider legislation to temporarily suspend duties on noncontroversial products.

7. *U.S. Trade Remedy Laws.* The Subcommittee will continue to review the application of U.S. antidumping, countervailing duty, general safeguard, product-specific safeguard, and textile safeguard laws, including the impact of these remedies on the injured domestic industries as well as the effect of trade remedies on downstream users of products subject to these actions. The Subcommittee will

continue to monitor the status of WTO negotiations, consultations, panel proceedings, and decisions concerning U.S. trade remedy laws and their application and will work with the Administration to assure compliance with U.S. WTO obligations.

8. *Authorizations for the Department of Homeland Security, the Office of the United States Trade Representative and the U.S. International Trade Commission.* The Subcommittee intends to hold hearings on authorizations for the trade agencies for FY 2006 and 2007 and work towards passage of authorization legislation. The Subcommittee will review funding for the customs revenue functions of the Department including, but not limited to, Customs Automated Commercial Environment (CACE), textile transshipment efforts, and the International Trade Data System (ITDS). In particular, the Subcommittee will examine the scope of the authorization for Customs given its incorporation into the U.S. Department of Homeland Security and will continue to conduct oversight of that reorganization and its impact on the collection of revenue and trade facilitation.

9. *User Fees.* The Subcommittee will continue its oversight of Customs user fees, including the amount of the fees and their relationship to the actual cost for providing services. The Subcommittee will examine issues surrounding the Consolidated Omnibus Reconciliation Act of 1985 account, especially whether the account contains sufficient resources to fund inspectional services and whether revised fee collections are appropriate. Significant issues to consider will be the entire nature of fees for customs operations within a much larger non-trade organization of the U.S. Department of Homeland Security. The Subcommittee will consider whether Customs is implementing requirements of the Trade Act of 2002 and the American Jobs Creation Act of 2004 (P.L. 108-357) related to user fees.

10. *Trade Adjustment Assistance.* The Subcommittee will continue its oversight of the general TAA programs for workers and firms in light of the substantial revisions made by the Trade Act of 2002 (P.L. 107-210).

11. *Trade Relations with China.* The Subcommittee will continue to monitor China's compliance with its WTO obligations and its role in the global marketplace. The Subcommittee will also continue to examine China's macroeconomic policies and will consult with the Administration to address issues that arrive.

12. *Normal Trade Relations with Jackson-Vanik Countries.* The Subcommittee will continue its oversight over the application of Jackson-Vanik provisions for countries subject to this statute. The Subcommittee will also continue its oversight over Presidential grants of Jackson-Vanik waivers and determinations in compliance with Jackson-Vanik requirements. In addition, the Subcommittee will continue to consult with the Administration concerning the progress of these countries in negotiating their accession to the WTO.

13. *Trade Preference Legislation.* The Subcommittee will continue its oversight over the Trade and Development Act of 2000 (P.L. 106-606) (Africa/Caribbean Basin Initiative), the enhancement to these programs contained in the Trade Act of 2002, the Andean Trade Preferences Act, and the AGOA Acceleration Act to ensure that the legislation is being implemented in a manner consistent

with Congressional intent. The Subcommittee will continue its efforts, begun in the 108th Congress, to extend preferential benefits to Haiti. In addition, the Subcommittee will also examine whether preference programs should be extended to other countries.

14. *Textiles and Apparel.* The Subcommittee will continue its oversight as to: the value of trade preference programs and their effect on U.S. industries; impact of the elimination of textile quotas in January 2005 on U.S. industries, countries receiving trade preferences, and other countries; effectiveness of efforts to halt illegal transshipment; and the use of textile safeguards (particularly with respect to transparency and application of statutory standards).

15. *Sanctions Reform.* In response to the dramatic growth in the imposition of unilateral economic sanctions and their impact on U.S. trade and competitiveness in international markets, the Subcommittee will continue its oversight on the use and effectiveness of U.S. unilateral trade sanctions, in particular whether any proposed sanction will achieve its intended objectives and whether the achievement of those objectives outweigh any likely costs to United States foreign policy, national security, economic, and humanitarian interests.

16. *Burma.* In keeping with the provisions of the Burmese Freedom and Democracy Act of 2003 (P.L. 108–61), the Subcommittee will examine on a yearly basis whether import sanctions against Burma (Myanmar) should be continued.

17. *Rules of Origin and Country of Origin Marking.* The Subcommittee will continue to review and consult with the Administration and the trade community on the status of rules of origin negotiations underway in the World Customs Organization; update rules of origin and country of origin marking to implement those negotiations so they reflect current business production, sales, and distribution practices; review whether U.S. law and U.S. Customs enforcement efforts are effective in preventing unlawful transshipment; and review the implementation labeling requirements by United States and its trading partners with respect to meat, fresh produce, and genetically modified products.

18. *Trade Relations with Japan.* The Subcommittee will continue its oversight of U.S.-Japan trade relations, focusing on the necessity for Japan to implement broad structural reforms, including deregulation of its economy, reform of its banking system, improved transparency, and the opening of its distribution system to eliminate exclusionary business practices.

19. *Asia Pacific Economic Cooperation Forum.* The Subcommittee will continue to review the status of U.S. trade policy objectives in Asia, particularly in the Asia Pacific Economic Cooperation Forum negotiations.

#### SUBCOMMITTEE ON HEALTH

1. *Medicare Program Oversight.* The Subcommittee intends to hold a hearing to evaluate the management of the Medicare program by the Centers for Medicare and Medicaid Services (CMS). The Subcommittee will explore changes that could be made to improve CMS's efficiency and its interactions with beneficiaries and the providers who serve them. The Subcommittee will examine CMS's progress on implementing the changes required by the Medicare Modernization Act (MMA) (P.L. 108–173).

2. *Medicare Payments for Physician Services.* The Subcommittee intends to hold hearings to examine Medicare reimbursement for physician services, including problems associated with the Sustainable Growth Rate formula and will explore alternative payment structures. In addition, the Subcommittee will examine creating incentives to promote physician performance and efficiency and will look at issues surrounding physician resource use. Geographic variations in payments to physicians will also be scrutinized. Finally, the Subcommittee will continue its oversight of payment adequacy for oncology related services, drugs, and biologics, including the changes made by the MMA.

3. *Medicare Payment for Hospital Services.* The Subcommittee intends to examine pricing transparency for hospital services. In addition, the Subcommittee will conduct oversight of the current reimbursement structure under Medicare, including potential hearings on operation of the wage index and differences between specialty and community based institutions. The Subcommittee intends to hold a hearing on paying for performance and physician resource use in the hospital setting. The Subcommittee intends to hold a hearing on financial reporting for hospitals, including instruments to better reflect costs and to promote the timeliness of data reporting.

4. *Medicare Payments for Post-Acute Care.* The Subcommittee intends to hold a hearing on payments to post-acute care providers in the Medicare program to determine whether the payment structures create incentives to inappropriately shift site of care to more lucrative settings. In addition, the Subcommittee will study proposals that provide financial security to individuals for long term care costs outside of the traditional Medicare structure.

5. *Retiree Health Coverage and Interaction with Medicare.* The MMA required the U.S. Government Accountability Office (GAO) to conduct initial and final reports on the trends in retiree health coverage, new options available to employers to subsidize coverage included in the MMA and what impact, if any, these subsidies had on retiree coverage. The Subcommittee will examine implementation of the MMA subsidies as they relate to retiree health coverage.

6. *Medicare Waste, Fraud and Abuse.* The Subcommittee will examine enforcement of laws to combat waste, fraud and abuse in the Medicare program and what steps might be taken to improve their application. The Subcommittee will also examine the issue of Medicare program solvency.

7. *Medically Uninsured.* The Subcommittee intends to hold a hearing on options to reduce the number of individuals and families without health insurance. The hearing will include an examination of tax credits, reinsurance of risk and purchasing pools, among other solutions.

8. *New Technologies in the Medicare Program.* The Subcommittee intends to hold a hearing on CMS policies that foster or hinder the adoption of new technologies in the Medicare program, including coverage and reimbursement policies and national and local coverage determinations.

9. *Other Medicare Payments.* The Subcommittee intends to hold a hearing on the appropriateness of payments to other Medicare providers, including home health agencies, skilled nursing facilities, end stage renal disease providers, durable medical equipment

suppliers and others. Such an examination will include proposals to make Medicare more efficient and responsive.

10. *Health Savings Accounts.* The Subcommittee intends to hold hearings and conduct other oversight activities on Health Savings Accounts.

11. *Medicare Advantage Program.* The Subcommittee intends to hold hearings and conduct other oversight activities on the Medicare Advantage program. The Subcommittee intends to examine payment and structural changes to Medicare Advantage plans enacted as a result of the MMA.

12. *Other Issues.* Further hearings will be scheduled as time permits to examine certain additional aspects of Medicare program management. Matters to be considered may include health care information technology, health care quality issues, Medigap reform, medical liability reform, especially as it affects the Medicare program and patient safety issues.

#### SUBCOMMITTEE ON HUMAN RESOURCES

1. *Welfare Reform.* Reauthorizing the Temporary Assistance for Needy Families (TANF) and related programs to amend and improve the 1996 welfare reform law continues to be a priority for the Subcommittee. Issues of particular interest to the Subcommittee include how TANF block grant funds and other HHS efforts to communicate with the public are used to develop strong families and encourage healthy marriage and how welfare reform policies can be strengthened to better promote increased work, reduced poverty, enhanced program integrity, and improved child well-being.

2. *Child Support and Fatherhood.* The Subcommittee intends to hold hearings on the nation's Federal-State child support system, review the results of program changes made in 1996 and 1998 law, and consider proposals for further improvements. The Subcommittee also will review proposals to encourage responsible fatherhood and closer involvement between fathers, children and families, both as a result of child support and other program policies.

3. *Supplemental Security Income.* The Supplemental Security Income (SSI) program provides over \$30 billion in benefit payments to 7 million disabled needy individuals each year. The Subcommittee will review proposals to reduce fraud and abuse in the program, and examine options for improving program outcomes such as enhancing the ability of individuals to return to work.

4. *Child Protection.* The Subcommittee held a number of child protection oversight hearings during the 108th Congress, examining the purposes and outcomes of current child protection programs. The Subcommittee will review program improvement proposals for child protection programs broadly, as well as involving distinct issues such as the handling of interstate placements. The Subcommittee also will review the operation of the Promoting Safe and Stable Families program in anticipation of the expected reauthorization of this program prior to the end of fiscal year 2006.

5. *Unemployment Compensation.* The Subcommittee intends to hold hearings on the Nation's unemployment compensation system. Issues of interest include a more detailed understanding of the characteristics of unemployment benefit recipients over time, and improving the program to better promote work, savings, and pro-

gram integrity. The Subcommittee also will review reemployment services provided to unemployment benefit recipients, and consider whether better return-to-work outcomes can be achieved through reforms.

#### SUBCOMMITTEE ON SOCIAL SECURITY

1. *Strengthening Social Security.* The Subcommittee intends to hold hearings to examine the degree to which Social Security programs are meeting the needs of today's and tomorrow's beneficiaries, along with the financial challenges facing the program and proposals to strengthen Social Security.

2. *Use of the Social Security Number.* The Subcommittee will continue their examination of the integrity of Social Security numbers (SSNs) and Social Security cards as identifiers, including their role in identity theft and other fraud.

3. *Disability Program Reform and Oversight.* The Subcommittee intends to hold hearings on the Social Security Disability Insurance (DI) program, including: the Social Security Administration's (SSA's) implementation of the Ticket to Work and Work Incentives Improvement Act (P.L. 160–170); oversight of SSA's disability program management, including efforts to improve workload processing at both the initial application and appeals levels.

4. *Stewardship of the Social Security Programs.* The Subcommittee intends to hold oversight hearings to examine the management of the Social Security programs, including international agreements, to assess their potential vulnerability to waste, fraud, and abuse, and to explore necessary legislative remedies.

5. *Service Delivery.* The Subcommittee intends to hold oversight hearings to examine SSA's service delivery to the public, including efforts to modernize service delivery to meet the changing expectations of today's customers, and SSA's efforts to communicate with the public about the financing challenges facing Social Security and possible changes to the program.

#### SUBCOMMITTEE ON SELECT REVENUE MEASURES

As directed by the Chairman of the full Committee, the Subcommittee on Select Revenue Measures will conduct hearings and develop legislation on a variety of tax issues.

This list is not intended to be exclusive. The Committee anticipates that additional oversight activities will be scheduled as issues arise and/or as time permits.

Sincerely,

BILL THOMAS, *Chairman.*

#### B. ACTIONS TAKEN AND RECOMMENDATIONS MADE WITH RESPECT TO OVERSIGHT PLAN

##### *Full Committee*

1. Fiscal Year (FY) 2006 and 2007 Budget Initiatives Regarding Taxes and Tax Reform.

*Actions taken:* The Committee held hearings on various tax reforms suggested in the President's FY 2006 and FY 2007 budgets during the 109th Congress. Hearings to receive testimony from Administration officials and private sector witnesses on the FY 2006 budget were held in February and March of 2005, while hearings

to receive testimony from Administration witnesses on the FY 2007 budget were held in February 2006.

In addition, on June 8, 2005, the Committee received testimony on economic policy issues for consideration in reforming federal taxation from (i) Alan J. Auerbach, Professor of Economics and Law, University of California at Berkeley; (ii) William Beach, Director of the Center for Data Analysis, The Heritage Foundation; (iii) Leonard E. Burman, Co-Director of Tax Policy Center and Senior Fellow, Urban Institute; (iv) R. Glenn Hubbard, Dean, Columbia University Graduate School of Business; (v) and Joel B. Slemrod, Professor of Economics, University of Michigan.

On November 1, 2005, the President's Advisory Panel on Federal Tax Reform released its report, entitled, "Simple, Fair, and Pro-Growth: Proposals to Fix America's Tax System." In response, the Subcommittee on Select Revenue Measures held a series of hearings to hear testimony dealing with various aspects of Tax Reform. On July 28, 2005, the Subcommittee received testimony from Members of Congress concerning their proposals for restructuring federal taxes. On November 16, 2005, the Subcommittee received testimony on reform proposals from Members of the Congress. On May 9, 2006, the Subcommittee examined issues involved in possible corporate tax reforms including rate reduction, base broadening and whether tax accounting should conform to book accounting methods. On June 22, 2006, the Subcommittee received testimony concerning trends in international taxation affecting U.S. businesses overseas and suggestions for reform. On September 26, 2006, the Subcommittee received testimony on reform proposals from Members of Congress.

## 2. Strengthening Social Security.

*Actions taken:* The Committee held a total of three hearings on protecting and strengthening Social Security.

The Committee held a hearing on March 9, 2005 on the future of Social Security. Testimony was heard from the United States Comptroller General and the two Public Trustees of the Social Security Trust Funds. Witnesses discussed the impending insolvency of the Social Security Trust Funds and the fact that the program's financial challenges are being driven in large part by the aging of baby boomers, longer life expectancy, and families having fewer children. The witnesses generally agreed that the sooner the program's financial challenges are addressed, the better it would be for workers, beneficiaries, and the Federal budget.

On May 12, 2005 the Committee held a hearing on various alternatives to strengthen Social Security. Testimony was heard from policy experts on Social Security benefits and financing. Witnesses discussed various alternatives for increasing Social Security taxes, slowing the growth of benefits, and advance-funding future Social Security benefits by providing workers the opportunity to own personal accounts. Each of these options would have different effects on workers and beneficiaries, as well as the national economy and the Federal budget. The witnesses generally agreed on the importance of strengthening Social Security's finances and the important role the program plays in helping to prevent poverty in retirement, as well as the need to preserve benefits for vulnerable groups such as individuals with disabilities, low-wage workers, and surviving spouses and children. Many of the witnesses also cited the advan-



tages of establishing personal accounts as part of Social Security, including the potential to improve retirement incomes, strengthen program finances, and increase national saving.

The Committee held a hearing on May 19, 2005 on the retirement and policy challenges and opportunities of our aging society. Testimony was heard from the Director of the Congressional Budget Office (CBO), the Chairman of the Social Security Advisory Board, and policy experts. The CBO Director provided an overview of America's changing demographics and discussed rapidly growing expenditures for seniors' health care (especially Medicare and Medicaid) and Social Security, and the associated economic and budgetary challenges. The Social Security Advisory Board Chairman discussed findings from the Board's report *Retirement Security: the Unfolding of a Predictable Surprise*. The policy expert witnesses provided information on the demographic forces influencing Social Security's financial challenges, the extent to which retirees depend on Social Security, the need to strengthen personal saving, and various options for strengthening retirement income security.

#### *Subcommittee on Oversight*

##### *A. Subcommittee Hearings for 109th Congress*

##### 1. 2005 Tax Return Filing Season and the IRS Budget for Fiscal Year 2006.

*Actions taken:* On April 14, 2005, the Subcommittee held its annual hearing examining the tax return filing season. The Subcommittee heard testimony from the Commissioner of the IRS, the Chairman of the IRS Oversight Board, the Government Accountability Office (GAO), and several representatives of the tax practitioner community. Much of the testimony presented to the Subcommittee focused on the IRS's efforts to increase enforcement and maintain customer service in an era of budgetary pressures. Taxpayers filed more than 120 million returns, including more than 65 million electronically filed returns. The Administration's budget requested \$10.7 billion to fund the IRS for fiscal year 2006. Congress and the President approved \$10.6 billion in the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act of 2006 (P.L. 109–115).

##### 2. Overview of the Tax-Exempt Sector.

*Actions taken:* The Committee on Ways and Means held a hearing providing a broad overview of the tax-exempt sector on April 20, 2005. This hearing was a first step in the Committee's detailed review of the tax-exempt sector. At this hearing, the Committee heard testimony from the Joint Committee on Taxation, the Government Accountability Office and several experts on exempt organizations. The hearing showed that the exempt sector has steadily grown over time without adequate direction from Congress, and that, in some cases, the original justifications for some exemptions may no longer exist. This hearing provided Members of the Committee with background on the size and scope of the exempt sector, as well as an overview of some current issues.

##### 3. IRS Strategic Plans and Fiscal Year 2006 Budget.

*Actions taken:* On May 19, 2005, the Subcommittee coordinated the annual Joint Congressional Review of the IRS, a hearing re-

quired by the IRS Restructuring and Reform Act of 1998. Participants from six House and Senate Committees were invited to participate in this hearing, which allowed Members from the House Committees on Ways and Means, Appropriations, Government Reform and the Senate Committees on Finance, Appropriations, Homeland Security and Government Affairs to focus on oversight of the IRS, its strategic plans, and the fiscal year 2006 budget.

#### 4. The Tax-Exempt Hospital Sector.

*Actions taken:* The full Committee held a hearing on May 26, 2005, focusing on the basis for the tax exemption granted to non-profit hospitals. Health-related organizations account for 60 percent of charitable organizations when measured by revenue, and the tax exemption for hospitals is worth billions of dollars each year. Accordingly, the hearing examined whether there is an adequate justification for the tax-exempt status of hospitals. At the hearing, the Committee heard testimony explaining that the standard for hospitals' exemption has steadily weakened to the point that there is little difference between non-profit hospitals and for-profit hospitals. In addition, the Internal Revenue Service regulations that establish requirements for non-profit hospitals to maintain their tax-exempt status are no longer meaningful. At the request of the Committee, the Congressional Budget Office (CBO) wrote and released two reports. One report showed while many non-profit hospitals are providing charity care to the communities that support them, some provide very little and often the non-profits are providing charity care at the same rate as tax-paying hospitals. The second report showed the federal subsidy through tax-exempt bonds lowers the cost of capital for non-profit hospitals and creates an incentive for them to use this subsidy instead of spending their own investment assets on capital projects. On December 8, 2006, Chairman Thomas introduced H.R. 6420, the "Tax Exempt Hospital Responsibility Act of 2006" which would provide a minimum statutory standard for a hospital to qualify as tax exempt, in addition to the other present law requirements for tax exemption. Tax exempt hospitals would be required to provide medical care or service for free or at discounted rates to low income uninsured patients.

#### 5. Review of the Tax Deduction for Façade Easements.

*Actions taken:* On June 23, 2005, the Subcommittee held a hearing about the growing practice of donating easements on the façade of historic structures. An investigation by the Committee indicated that over the last four years, this practice had grown dramatically in certain areas, and that it was being abused by taxpayers and tax-exempt organizations. Certain exempt organizations urged taxpayers to overvalue their easement donations, which allowed them to receive a substantial tax deduction yet cede very little of value to the exempt organization. The Subcommittee reviewed the practices of the most prominent tax-exempt organization handling easement donations, the National Architectural Trust (NAT). The hearing showed that NAT was actively involved in promoting overvaluation of façade easement donations, and that the founders of NAT profited handsomely from the activities, making \$1.9 million over the past three years. To address some of the abuses, the IRS has modified tax forms and is conducting audits. The Pension Protection Act of 2006 (P.L. 109-280), placed restrictions on the ease-

ment deduction for historic structures. Under the new law, the easement must prohibit the entire exterior of the building from being changed or altered in a manner inconsistent with the historical character of the exterior. This provision also clarifies that the charitable deduction is reduced if a rehabilitation tax credit has been claimed with respect to the property.

6. Examine Tax Fraud Committed by Prison Inmates.

*Actions taken:* On June 29, 2005, the Subcommittee held a hearing on tax fraud committed by prison inmates. The Subcommittee had completed an investigation of this growing problem, learning that the Internal Revenue Service (IRS) detects over 18,000 cases of tax return fraud by prison inmates each year, yet the actual number of cases of fraud could be much higher. Even though the IRS detects over 18,000 cases of fraud each year, it only stops fraudulent refunds from being issued in about 70 percent of the cases. Moreover, the IRS can never inform prison authorities when inmates have committed fraud, due to taxpayer confidentiality laws. As a result of the hearing, the IRS has announced that it will be introducing new procedures to try to stop more cases of inmate fraud. In addition, Chairman Ramstad introduced legislation to allow the IRS to share information with state and federal correctional authorities to allow them to take appropriate action against inmates who commit tax fraud.

7. Fraud in Income Tax Preparation.

*Actions taken:* On July 20, 2005, the Subcommittee held a hearing to examine evidence of negligent and fraudulent return preparation practices by tax professionals and the statutory and regulatory structure applicable to Federal tax practice. The Subcommittee learned that tax return preparers play an important role—with more than 1.2 million paid preparers preparing more than 70 million returns each year. However, there is little oversight of paid preparers, no comprehensive registration of return preparers, and no requirement that paid preparers meet any threshold for competency requirements. The Subcommittee also considered whether there are ways to improve the oversight and education of paid return preparers without creating a cumbersome bureaucracy.

8. Review of Credit Union Tax Exemption.

*Actions taken:* On November 3, 2005, the Committee held a hearing examining the tax exemption granted to credit unions. The purpose of this hearing was to review the justification for the exemption, and to see what credit unions do to earn their tax-exempt status. Testimony and discussion at the hearing indicated that many questions exist about the purpose of the tax exemption. Credit unions are not required to serve low-income populations, despite this being one of the reasons for exemption, and many have steadily expanded their fields of membership over time. Moreover, certain Members and witnesses questioned whether there is adequate transparency in credit unions' operations. Many credit unions do not file Form 990s with the Internal Revenue Service, and therefore there is little information about key aspects of credit union operations. The Committee also examined the role of the National Credit Union Administration (NCUA), the government regulator of credit unions, and whether the agency is independent from the industry it regulates. Testimony indicated that the NCUA does not

collect any data about who credit unions serve and could benefit from being more active in other areas of regulation than safety and soundness.

9. Review the Response by Charities to Hurricane Katrina.

*Actions taken:* On December 13, 2005, the Subcommittee held a hearing reviewing the response by charitable organizations to Hurricane Katrina. Due to the scope of the disaster, a multitude of charities helped provide food, shelter, clothing, and financial assistance to storm victims. The hearing examined several issues, including the coordination of relief among charities, whether charitable contributions were used effectively, and the availability of relief services to rural areas, minorities, and disabled individuals. The American Red Cross received much of the attention, because of its status as the charity that most Americans turn to during crises and because it is tasked under the federal government's National Response Plan to provide food, shelter, first aid, and counseling to disaster victims. Certain Members questioned whether it was prudent to place such great responsibility in the hands of one non-governmental organization. The morning of the hearing, the Red Cross announced the resignation of its president, Marsha Evans.

10. Social Security Number High Risk Issues and Employer Wage Reporting.

*Actions taken:* On February 16, 2006, the Subcommittees on Social Security and Oversight held a joint hearing on employer wage reporting as part of the Social Security Subcommittee's hearing series on Social Security Number high risk issues. Testimony was provided by the Internal Revenue Service, Social Security Administration (SSA) and the Department of Homeland Security (DHS). Testimony at the hearing showed that DHS worksite enforcement has decreased in recent years, IRS enforcement of accurate wage reporting is not a priority, and there are still significant shortcomings in the information sharing arrangements between DHS, SSA and IRS. DHS indicated that they would like to receive additional information from SSA or IRS, such as the egregious employers list, SSA no-match letters or Earnings Suspense File data. However, these records are subject to taxpayer privacy protections under the law. In addition, testimony indicated that DHS was not utilizing information provided by SSA through the non-work alien file.

11. 2006 Tax Return Filing Season and the IRS Budget for Fiscal Year 2007.

*Actions taken:* On April 6, 2006, the Subcommittee held its annual hearing on the tax return filing season. Witnesses included the Commissioner of the Internal Revenue Service, the Treasury Inspector General for Tax Administration, the IRS Oversight Board, the Government Accountability Office, the Executive Director of the Free File Alliance, and several tax practitioner representatives. Taxpayers filed more than 124 million returns, including filing more than 70 million returns electronically. The Administration's budget requested \$10.6 billion to fund the IRS for fiscal year 2007. In addition to examining the 2006 tax return filing season and the IRS budget for fiscal year 2007, the hearing focused on whether a new agreement between the IRS and private industry to provide free, online tax return preparation and filing services was adequately serving taxpayers. The new agreement created a cap on

the number of taxpayers who could qualify for free services, which contributed to a decline in their usage of over 20 percent. At the hearing, the IRS Commissioner pledged to consider renegotiating the agreement with private industry.

12. Charities and Employment Taxes: Are Charities in the Combined Federal Campaign Meeting their Employment Tax Responsibilities?

*Actions taken:* On May 25, 2006, the Subcommittee held a hearing examining charities participating in the Combined Federal Campaign (CFC) and the Office of Personnel Management's (OPM) screening process for accepting charities into the campaign. The Government Accountability Office (GAO) conducted an investigation of the charities' tax debts and whether these charities also received Federal grants. According to GAO, approximately 1,300 charities participating in the CFC had tax debt totaling about \$36 million. In addition, more than 170 of those charities also received Federal grants totaling \$1.6 billion. In order to demonstrate OPM's lax screening process for charities participating in the campaign, GAO also created a fake charity and applied for entry into three different local CFC campaigns for 2006. All three of GAO's applications were accepted by OPM and admitted into local campaigns. The GAO released its official report in July 2006. OPM is making improvements to the way it screens charities through regulations, the creation of a national list of participating organizations and limited verification of the tax-exempt status of all local and national participants.

#### *Subcommittee on Trade*

1. Bush Administration Trade Policy.

*Actions taken:* In December 2005, the Committee received from the Government Accountability Office (GAO) a report entitled "International Trade: USTR Would Benefit from Greater Use of Strategic Human Capital Management Principles" (GAO-06-167).

On February 15, 2006, the Committee held a hearing on President Bush's trade agenda for 2006. The sole witness was U.S. Trade Representative (USTR) Rob Portman. The hearing examined current trade issues, including: (1) the prospect for trade expansion in agriculture, industrial goods, and services through multilateral negotiations in the World Trade Organization (WTO); (2) the then recently concluded free trade agreements (FTAs) with Oman and Peru; (3) other FTAs being negotiated or have been notified by the President; (4) management of bilateral trade disputes and concerns; (5) ongoing negotiations with several countries seeking to accede to the WTO including Vietnam and Russia; (6) compliance with WTO dispute settlement decisions; and (7) other trade issues.

2. World Trade Organization.

*Actions taken:* On May 17, 2005, the Subcommittee held a hearing to review future prospects for U.S. participation in the WTO. The hearing focused on overall results of U.S. membership in the WTO and General Agreement on Tariffs and Trade (GATT); whether future participation of the United States in the WTO and the multilateral trading system can be expected to benefit Americans; and prospects for increased economic opportunities for U.S. farmers, workers, and consumers in the Doha Round.

On December 14–18, 2005, a bipartisan delegation of staff from the Committee on Ways and Means and the Senate Committee on Finance attended the WTO's Ministerial Conference in Hong Kong, consulted with U.S. trade officials during the negotiations, and discussed trade issues with foreign delegates and WTO officials. Staff met with foreign delegations, U.S. business representatives, and WTO Secretariat staff. An important objective of the meetings was to highlight the importance that Members of Congress place on trade and especially on the need for trade liberalization in the agricultural sector.

On March 2, 2005, Congressman Sanders introduced H.J. Res. 27, a resolution to withdraw Congressional approval of the agreement establishing the WTO. Under the Uruguay Round Agreements Act (P.L. 103–465), the resolution is privileged and subject to specialized procedures. The resolution is not amendable and must be considered on the floor within 45 days of introduction. The resolution was referred to the Committee on Ways and Means, which adversely reported the resolution on May 26, 2005, by voice vote. On June 9, 2005, the House considered the resolution and failed to pass it, by a recorded vote of 86–338 and 1 present. No further action was taken on the resolution in the 109th Congress.

In May 2005, the Committee received from the GAO the report entitled “World Trade Organization: Global Trade Talks Back on Track, but Considerable Work Needed to Fulfill Ambitious Objectives” (GAO–05–538). The GAO continues to monitor negotiations for the Committee.

In August 2005, the Committee received from the Congressional Budget Office the paper entitled “Policies That Distort World Agricultural Trade: Prevalence and Magnitude.”

In December 2005, the Committee received from the Congressional Budget Office the paper entitled “The Effects of Liberalizing World Agricultural Trade: A Survey.”

Throughout the 109th Congress, USTR consulted frequently with the Committee and the Congressional Oversight Group (COG) about the negotiations and U.S. positions.

3. Completed Bilateral Free Trade Agreements (Central America, Bahrain, Oman, Peru, Morocco, and Colombia)

*Actions taken:* On April 21, 2005, the Committee held a hearing on implementation of the United States bilateral free trade agreement with El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica, and the Dominican Republic. On June 15, 2005, the Committee informally approved with amendment draft legislation to implement the Dominican Republic-Central America-United States Free Trade Agreement (DR–CAFTA), by a roll call vote of 25–16. The Committee conducted this informal markup to provide advice to the Administration on the implementing bill and Statement of Administrative Action. On June 30, 2005, the Committee held a formal markup session to consider H.R. 3045, the “Dominican Republic-Central America-United States Free Trade Agreement Implementation Act.” The Committee approved the bill and favorably reported H.R. 3045 by a roll call vote of 25–16. Under Trade Promotion Authority (TPA), amendments are not permitted. On July 28, 2005, the House passed the bill by a recorded vote of 217–215. On June 30, 2005, before the House took action on H.R. 3045, the Senate passed S. 1307 by a recorded vote of 54–45. On July 28,

2005, the Senate passed H.R. 3045, without amendment, by a recorded vote of 55–45. The President signed the bill into law on August 2, 2005 (P.L. 109–53).

In August 2004, the Committee received from the International Trade Commission (ITC) the report entitled “U.S.-Central America-Dominican Republic Free Trade Agreement: Potential Economywide and Selected Sectoral Effects” (Investigation No. TA–2104–13 (Publication 3717)).

On September 29, 2005, the Committee held a hearing on implementation of the United States bilateral free trade agreement with Bahrain. On November 3, 2005, the Committee informally approved draft legislation to implement the United States-Bahrain Free Trade Agreement, by a roll call vote of 23–0, with 15 Members voting present, without amendment. The Committee conducted this informal markup to provide advice to the Administration on the implementing bill and Statement of Administrative Action. On November 18, 2005, the Committee held a formal mark-up session to consider H.R. 4340, the “United States-Bahrain Free Trade Agreement Implementation Act.” The Committee approved the bill and favorably reported H.R. 4340 by voice vote. Under TPA, amendments are not permitted. On December 7, 2005, the House passed the bill by a recorded vote of 327–95. On December 13, 2005, the Senate passed H.R. 4340 by unanimous consent. The President signed the bill into law on January 11, 2006 (P.L. 109–169).

In October 2004, the Committee received from the ITC the report entitled “U.S.-Bahrain Free Trade Agreement: Potential Economywide and Selected Sectoral Effects” (Investigation No. TA–2104–15 (Publication 3726)).

On April 5, 2006, the Committee held a hearing on implementation of the United States bilateral free trade agreement with Oman. On May 10, 2006, the Committee informally approved draft legislation to implement the United States-Oman Free Trade Agreement, by a roll call vote of 23–11, with 3 Members voting present, without amendment. The Committee conducted this informal markup to provide advice to the Administration on the implementing bill and Statement of Administrative Action. On June 26, 2006, Majority Leader Boehner introduced (by request) H.R. 5684, the “United States-Oman Free Trade Agreement Implementation Act,” to be considered under Trade Promotion Authority. On June 29, 2006, the Committee held a formal mark-up session to consider H.R. 5684. The Committee favorably reported H.R. 5684 by a roll call vote of 23–15. Under TPA, amendments are not permitted. On June 29, 2006, before the House took action on H.R. 5684, the Senate passed S. 3569 by a recorded vote of 60–34. On July 20, 2006, the House passed the bill by a recorded vote of 221–205. On September 19, 2006, the Senate passed H.R. 5684 by a recorded vote of 62–32. The President signed the bill into law on September 26, 2006 (P.L. 109–283).

In February 2006, the Committee received from the ITC the report entitled “U.S.-Oman Free Trade Agreement: Potential Economy-wide and Selected Sectoral Effects” (Investigation No. TA–2104–19 (Publication 3837)).

On July 12, 2006, the Committee held a hearing on implementation of the United States bilateral free trade agreement with Peru. On July 20, 2006, the Committee informally approved draft legisla-

tion to implement the United States-Peru Trade Promotion Agreement, by a roll call vote of 23–13, without amendment. The Committee conducted this informal markup to provide advice to the Administration on the implementing bill and Statement of Administrative Action. No further action was taken in the 109th Congress.

In June 2006, the Committee received from the ITC the report entitled “U.S.-Peru Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects” (Investigation No. TA–2104–20 (Publication 3855)).

In December 2006, the Committee received from the ITC the report entitled “U.S.-Colombia Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects” (Investigation No. TA–2104–23 (Publication 3896)).

In April 2005, the Committee received from the ITC the report entitled “U.S.-Morocco Free Trade Agreement: Effect of Modifications to the U.S.-Morocco Free Trade Agreement” (Investigation No. Morocco FTA 103–11 (Publication 3774, April 2005)).

#### 4. Bilateral and Regional Free Trade Agreements Under Negotiation.

*Actions taken:* Pursuant to Sense of Congress language in the Africa Growth and Opportunities Act of 2000 (P.L. 106–200), U.S. Trade Representative Zoellick notified Congress on November 4, 2002, of the Administration’s intent to enter into free trade agreement negotiations with the Southern African Customs Union (SACU) countries (South Africa, Lesotho, Swaziland, Botswana, and Namibia). Negotiations between the United States and the SACU countries were launched on June 2, 2003, in Pretoria, South Africa and were suspended in 2006 due to lack of progress.

As noted above, on November 18, 2003, the U.S. Trade Representative Zoellick formally notified Congress of the Administration’s intent to initiate negotiations for a free trade agreement with Colombia, Ecuador, and Peru. Negotiations began in May 2004 with Colombia, Ecuador, and Peru. Bolivia was an observer to those negotiations. See discussion above concerning the conclusion of FTA negotiations with Peru and Colombia. The United States and Ecuador suspended negotiations in May 2006.

On July 3–9, 2005, Chairman Thomas led a bipartisan delegation of Committee Members to Colombia, Ecuador, and Peru. The purpose of the delegation’s trip was to focus on the ongoing negotiations for a free trade agreement with the countries and to discuss investment and security issues in the region. The delegation in particular emphasized that current unilateral trade preferences under the Andean Trade Promotion and Drug Eradication Act (P.L. 107–210) (ATPDEA) are set to expire in December 2006, and the only way that the Andean countries can replicate their access to the U.S. market after these benefits expire is through a comprehensive free trade agreement providing reciprocal market access. In September 2005, the Committee filed its “Report on Trade Mission to Colombia, Ecuador, and Peru.”

On November 18, 2003, U.S. Trade Representative Zoellick formally notified Congress, on behalf of President Bush, of the Administration’s intent to initiate free trade agreement negotiations with Panama. Negotiations were launched on April 26, 2004.

On February 12, 2004, U.S. Trade Representative Zoellick formally notified Congress of the Administration’s intent to negotiate



an FTA with Thailand. Negotiations began in June 2004, and the sixth round was held in January 2006. However, FTA talks were suspended after a political crisis enveloped Thailand in April 2006. In September 2006, a military coup ousted the sitting government. The United States has stated that the FTA talks will not resume until Thailand has a democratically elected government with authority to resume the negotiations.

The United States signed a Trade and Investment Framework Agreement (TIFA) with the United Arab Emirates (UAE) on March 15, 2004. On November 15, 2004, U.S. Trade Representative Zoellick formally notified Congress of the Administration's intention to initiate free trade agreement negotiations with the UAE. A free trade agreement with the UAE is part of the goal announced by the President to form a Middle East Free Trade Area by 2013. The first round of negotiations was held on March 8, 2005. There have been four full fledged negotiating rounds and three formal rounds on investment, with the last round in August 2006.

On February 2, 2006, U.S. Trade Representative Portman formally notified Congress of the Administration's intent to initiate negotiations for a free trade agreement with the Republic of Korea. Negotiations began in June 2006 and are targeted to conclude by the end of 2006.

On March 8, 2006, U.S. Trade Representative Portman formally notified Congress of the Administration's intent to initiate negotiations for a free trade agreement with Malaysia. Negotiations were launched in June 2006.

On each of these negotiations, USTR consulted frequently with the Committee and with the Congressional Oversight Group (COG) throughout the 109th Congress about the negotiations and U.S. positions.

#### 5. Bilateral Free Trade Agreements Entered Into Force.

*Actions taken:* Negotiations for the U.S.-Dominican Republic-Central America Free Trade Agreement were completed in May 2004. As noted above, the President signed the implementing legislation into law on August 2, 2005 (P.L. 109-53).

On July 18, 2005, Chairman Thomas responded to Congressmen Gingrey and Inglis's letter related to textile issues in DR-CAFTA. As a result of the commitments on changing the rule of origin on pocketing, the Committee prepared technical amendments to DR-CAFTA. On July 28, 2006, the House passed H.R. 4, the Pension Protection Act of 2006, which included a provision to extend narrow proclamation authority to the President to implement changes to certain apparel rules of origin with respect to countries that have entered into letters of understanding concerning pocketing material with the United States and, subject to certain Congressional notification and layover limitations, with respect to countries that will do so in the future. H.R. 4 passed by a recorded vote of 279-131. On August 3, 2006, the Senate passed H.R. 4, without amendment, by a recorded vote of 93-5. The President signed the bill into law on August 17, 2006 (P.L. 109-280).

Negotiations for the U.S.-Bahrain Free Trade Agreement were completed in May 2004. As noted above, the President signed the implementing legislation into law on January 11, 2006 (P.L. 109-169). The agreement entered into force on August 1, 2006.

#### 6. Miscellaneous Duty Suspensions and Technical Corrections to U.S. Trade Laws.

*Actions taken:* On March 11, 2005, Subcommittee on Trade Chairman Shaw requested that Members introduce bills for inclusion in a miscellaneous trade bill package. On July 25, 2005 and August 5, 2005, Chairman Shaw requested written comments from parties interested in these miscellaneous trade proposals, technical corrections to the trade laws, and temporary suspensions on certain imports. On March 14, 2006, Chairman Shaw introduced H.R. 4944, the Miscellaneous Trade and Technical Corrections Act of 2006, which was referred to the Committee on Ways and Means. The bill included 570 duty suspensions on various products, several reliquidations of prior import entries due to government error, and miscellaneous trade provisions and technical corrections. The duty suspension provisions related mostly to products (largely chemicals) for which there are no U.S. domestic manufacturers. On March 15, 2006, the House passed H.R. 4944 under suspension of the rules, by a recorded vote of 412–2. H.R. 4944 was subsequently referred to the Senate Committee on Finance.

Approximately half of the provisions from H.R. 4944 (all provisions that had companion legislation already introduced in the Senate) were included in H.R. 4, the Pension Protection Act of 2006. On July 28, 2006, the House passed H.R. 4 by a recorded vote of 279–131. On August 3, 2006, the Senate passed H.R. 4, without amendment, by a recorded vote of 93–5. The President signed the bill into law on August 17, 2006 (P.L. 109–280).

The remaining provisions of H.R. 4944 were subsequently included in H.R. 6406 along with 232 Senate-only duty suspensions on various products. H.R. 6406 passed the House on December 8, 2006, by a recorded vote of 212–184. Under the rule accompanying H.R. 6111, “A bill to amend the Internal Revenue Code of 1986 to provide that the Tax Court may review claims for equitable innocent spouse relief and to suspend the running on the period of limitations while such claims are pending,” H.R. 6406 was merged into H.R. 6111, which then passed the Senate on December 9, 2006, by a recorded vote of 79–9.

#### 7. U.S. Trade Remedy Laws.

*Actions taken:* The Continued Dumping and Subsidy Offset Act (CDSOA) was enacted into law in October 2000 (P.L. 106–387) and requires the annual disbursement of antidumping and countervailing duties to qualified petitioners and interested parties in the underlying trade remedy proceedings. On January 16, 2003, the WTO’s Appellate Body issued a final adverse ruling against the CDSOA, finding that it is inconsistent with U.S. obligations to the WTO. On November 28, 2004, the WTO authorized approximately \$134 million in retaliation against the United States for FY2003 CDSOA disbursements. Under the methodology set by the WTO to determine the appropriate amount of retaliation, the level may change annually and is set at 72 percent of CDSOA disbursements for the previous year. Canada, Mexico, the European Union, and Japan imposed retaliatory tariffs against a variety of U.S. exports.

On April 30, 2004, Subcommittee on Trade Chairman Crane, along with Congressmen Ramstad, Boehner, and Biggert, requested the GAO to carry out a comprehensive review of the CDSOA and its impact on recipient industries, including an analysis of how

CDSOA funds have been used by recipient companies. In January 2005, Trade Subcommittee Clay Shaw renewed the request for the CDSOA review.

On March 3, 2005, Congressman Ramstad and Chairman Shaw introduced H.R. 1121 to repeal the CDSOA. On July 25, 2005, Chairman Shaw requested written comments from parties interested in miscellaneous trade proposals, including H.R. 1121. Over 150 comments were received on H.R. 1121, and comments were nearly equally divided with a slight majority supporting CDSOA repeal.

On September 26, 2005, the Committee received from the GAO the report entitled "International Trade: Issues and Effects of Implementing the Continued Dumping and Subsidy Offset Act" (GAO-05-979). The GAO found that since the inception of CDSOA (FY2001), five companies (three of which are related) received 46% of the over \$1 billion in payments. GAO also reported that two-thirds of all payments went to three industries: bearings, candles, and steel. The GAO concluded that the CDSOA does not provide a "trade remedy" in the traditional sense because it is not available to all companies; many domestic producers impacted by dumped or subsidized imports are ineligible to receive funds because they did not formally and publicly support the petition that resulted in the duties. The GAO report made several recommendations to CBP to improve the implementation of the CDSOA, such as systematic verification of CDSOA claims, providing additional guidance for preparing CDSOA claims, and standardized exchanges of electronic updates between CBP and the International Trade Commission on eligible claimants. The Committee and GAO conducted several follow up meetings with CBP to ensure that CBP implements the GAO recommendations in its report.

On October 26, 2005, the Ways and Means Committee approved "Entitlement Reconciliation Recommendations for Fiscal Year 2006," as amended, by a vote of 22-17. The recommendations included a provision to repeal the CDSOA effective upon enactment. On November 18, 2005, the House approved H.R. 4241, the "Deficit Reduction Act of 2005," by a 217-215 vote. The House-passed bill included immediate CDSOA repeal. On November 3, 2005, the Senate passed S. 1932, the "Deficit Reduction Omnibus Reconciliation Act of 2005," by a vote of 52-47. The Senate-passed bill did not include CDSOA repeal. On December 15, 2005, the Senate passed a nonbinding motion offered by Senator DeWine instructing Senate conferees to insist that any conference report not include CDSOA repeal, by a vote of 71-20. The conference report for the Deficit Reduction Act of 2005 was filed on December 19, 2005 and contained a provision to repeal the CDSOA immediately upon enactment but allowing the continued disbursements of duties on goods entered before October 1, 2007. On December 19, 2005, the House approved the conference report by a vote of 212-206. On December 21, 2005, the Senate approved the conference report with an amendment to provisions unrelated to CDSOA repeal, by a vote of 51-50. On February 1, 2006, the House approved the bill as amended by the Senate by a vote of 216-214. President Bush signed the bill into law on February 8, 2006 (P.L. 109-171).

On November 17, 2005, the Senate passed by voice vote amendment SA 2655 proposed by Senator Craig to the tax reconciliation

bill (S. 2020). The amendment contained a nonbinding resolution severely limiting outcomes on antidumping and countervailing negotiations in the World Trade Organization. On November 18, 2005, the Senate approved S. 2020 as amended by a vote of 64–33. On November 18, 2005, Congressman English introduced H. Res. 577, the text of which was identical to the Senate-passed amendment. No further action was taken on H. Con. Res. 577. On December 8, 2005, the House approved H.R. 4297, the Tax Relief Extension Reconciliation Act of 2005, by a vote of 234–197. The House-passed tax reconciliation bill did not contain a provision related to antidumping and countervailing duty negotiations in the World Trade Organization. The conference report did not retain the Senate amendment.

FY2006 CDSOA disbursements of nearly \$380 million were issued to recipients on November 27, 2006.

8. Authorizations for the Department of Homeland Security, the Office of the United States Trade Representative and the U.S. International Trade Commission.

*Actions taken:* The Committee on Ways and Means, working with the Homeland Security Committee, included several trade and customs revenue provisions and established a one-year authorization for U.S. Customs and Border Protection (CBP) as part of H.R. 1817, the “Department of Homeland Security Authorization Act for Fiscal Year 2006,” to provide CBP with guidance as it plans its budgets and to provide Committee guidance in the appropriations process. The bill was reported out of the Homeland Security Committee on May 3, 2005, and the Committee on Ways and Means received a joint, sequential referral for a period not ending later than May 13, 2005. Through an exchange of letters on May 12, 2005, the two committees agreed to include in the Manager’s Amendment various changes requested by the Committee on Ways and Means concerning trade and customs matters. In addition, the Committees agreed to include customs provisions that were previously passed out of the House of Representatives in the 108th Congress as part of HR 4418, the “Customs and Border Security Act of 2004,” particularly sections 102 (providing for the establishment of a cost accounting system), 104 (requiring a report on the One Face at the Border Initiative), 124 (authorizing Customs to provide certain services to Charter aircraft carriers), and 125 (stating the sense of the Congress regarding textile enforcement provisions in certain trade preference programs). H.R. 1817 was passed in the House by recorded vote 424–4 on May 18, 2005.

On November 14, 2005, Congressman Peter King introduced H.R. 4312, the “Border Security and Terrorism Prevention Act of 2005,” which contained several provisions dealing with border security issues that impact the flow of trade and imports and customs revenue, matters under the jurisdiction of the Committee on Ways and Means. The Committee on Ways and Means and the Homeland Security reached agreement to certain modifications to H.R. 4312 to preserve the jurisdiction of the Committee on Ways and Means and to protect trade and customs revenue interests. This agreement was memorialized in an exchange of letters on December 6, 2005. The trade-related provisions agreed to between these Committees for inclusion in H.R. 4312 were later incorporated in H.R. 4437, the “Border Protection, Antiterrorism and Illegal Immigration Control

Act of 2005,” which had been introduced by Congressman F. James Sensenbrenner on December 6, 2005 and reported out of the Committee on the Judiciary on December 13, 2005. The bill was referred jointly and sequentially to the Committee on Ways and Means on December 13, 2005 for a period not ending later than December 14, 2005. The Committee on Ways and Means discharged the bill on December 14, 2005. H.R. 4437 was passed in the House by recorded vote 239–182 on December 16, 2005.

On March 14, 2006, Congressman Dan Lungren introduced H.R. 4954, the Security and Accountability For Every (SAFE) Port Act. On May 3, 2006, Chairman Thomas and Committee on Homeland Security Chairman Peter King exchanged letters acknowledging the jurisdiction of the Committee on Ways and Means and its agreement to forgo consideration of the bill. On May 4, 2006, the legislation passed the House by a recorded vote of 421–2. On September 14, 2006, the bill passed the Senate with an amendment by a vote of 98–0. On September 30, 2006, the conference report to H.R. 4954 passed the House by a recorded vote of 409–2. On September 30, 2006, the Senate agreed to the conference report by unanimous consent. It was signed into law by the President on October 13, 2006 (P.L. 109–347).

On July 25, 2006, the Subcommittee held a hearing to review budget authorizations for FY2007 and FY2008 for U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE). In addition, the hearing addressed other Customs issues, including: the creation of CBP and ICE and the integration of the former U.S. Customs Service into the U.S. Department of Homeland Security, the Customs Trade Partnership Against Terrorism (C-TPAT) program, Customs automation and modernization efforts and the mechanisms needed to fund them, and general Customs oversight issues.

On June 2005, the Committee received from the GAO a report entitled “International Trade: Further Improvements Needed to Handle Growing Workload for Monitoring and Enforcing Trade Agreements” (GAO–06–537).

#### 9. User Fees.

*Actions taken:* The Committee continued to examine the issue of setting the appropriate level for user fees and how the fees are used. To enable the Committee to continue to conduct proper oversight of the use of user fee funds, the Committee has commissioned studies by the Department of Homeland Security.

#### 10. Trade Adjustment Assistance (TAA).

*Actions taken:* The Committee has continued its oversight of the general TAA programs for workers and firms in light of the substantial revisions made by the Trade Act of 2002 through discussions with the Administration and interested parties.

At the June 15, 2005 informal mark-up of DR–CAFTA, Chairman Thomas included a provision that would have required the President to prepare a report that would examine after one year whether the agreement has had a net negative effect on the services industry. The provision would have required the President to make recommendations as to how the TAA program should be amended if the DR–CAFTA led to negative effects on the services industry. This suggested provision was not included in the non-

amendable legislation that the President sent to Congress for its consideration.

#### 11. Trade Relations With China.

*Actions taken:* On April 14, 2005, the Committee held a hearing on United States-China economic relations and China's role in the world economy. The hearing focused on (1) implementation of China's WTO accession commitments; (2) trade relations between the United States and China; (3) China's currency management; and (4) the relationship between trade with China and the U.S. economy.

On July 14, 2005, Congressman Phil English introduced H.R. 3283, the "Trade Rights Enforcement Act." The bill would have authorized funding for enforcement offices within USTR, require reports on China's currency exchange reforms, authorized the application of U.S. countervailing duty law to exports from nonmarket economies such as China, and established a system of comprehensive monitoring of Chinese compliance with its trade obligations. The bill was referred to the Committee and placed on the House Suspension Calendar on July 26, 2005. The bill failed to pass with the requisite two-thirds majority, by a recorded vote of 240–186. The bill subsequently passed the House under a rule on July 27, 2005, by a recorded vote of 255–168.

Throughout 2005 and 2006, the Committee exercised oversight over the Administration's handling of trade relations with China and requested ongoing briefings by USTR officials. In particular, the Committee has been briefed on impending and ongoing WTO challenges against China.

On January 25, 2005, the Ranking Members of the Committee received from the GAO the requested report entitled "U.S.-China Trade: Summary of 2003 World Trade Organization Transitional Review Mechanism for China" (GAO-05-209R U.S.-China Trade).

In April 2005, the Committee received from the GAO a report entitled "U.S.-China Trade: Textile Safeguard Procedures Should Be Improved" (GAO-05-296).

In April 2005, the Committee received from the GAO a report entitled "International Trade: Treasury Assessments Have Not Found Currency Manipulation, but Concerns about Exchange Rates Continue" (GAO-05-351).

On April 14, 2005, the Committee received from the GAO a report entitled "U.S.-China Trade: Opportunities to Improve U.S. Government Efforts to Ensure Open and Fair Markets" (GAO-05-544T).

In June 2005, the Committee received from the GAO a report entitled "U.S.-China Trade: Commerce Faces Practical and Legal Challenges in Applying Countervailing Duties" (GAO-05-474).

On September 2005, the Committee received from the GAO a report entitled "U.S.-China Trade: The United States Has Not Restricted Imports under the China Safeguard" (GAO-06-1056).

On December 9, 2005, the Committee received from the GAO the report entitled "China Trade: U.S. Exports, Investment, Affiliate Sales Rising, but Export Share Falling" (GAO-06-162).

In January 2006, the Committee received from the GAO a report entitled "U.S.-China Trade: Eliminating Nonmarket Economy Methodology Would Lower Antidumping Duties for Some Chinese Companies" (GAO-06-231).

In July 2006, the Committee received from the ITC the report entitled “Conditions of Competition for Certain Oranges and Lemons in the U.S. Fresh Market” (Investigation No. 332–469 (Publication 3863, July 2006)). The report covered market information worldwide, but in particular, ITC collected and developed information about these products from China for the first time.

On September 21, 2006, Chairman Bill Thomas requested a three-part study pursuant to section 332 of the Trade Act of 1930 on China trade and investment, to be submitted in parts through the middle of 2008.

#### 12. Normal Trade Relations With Jackson-Vanik Countries.

*Actions taken:* Ukraine’s trade status was subject to the “Jackson-Vanik” provisions in Title IV of the Trade Act of 1974. This provision of law governs the extension of normal trade relations (NTR), including NTR tariff treatment, and access to U.S. Government credits, or credit or investment guarantees, to nonmarket economy countries ineligible for NTR treatment as of the enactment of the Act. The President first declared Ukraine to be in full compliance with the Jackson-Vanik requirements in 1997, and such Presidential certification has been annually renewed.

Ukraine is in the process of acceding to the World Trade Organization. So as to allow the United States and Ukraine to enjoy a full-fledged trade relationship once Ukraine joins the WTO, Congress passed legislation to end the annual Jackson-Vanik review and grant permanent NTR (PNTR). On November 18, 2005, the Senate passed S. 632 to grant PNTR to Ukraine by unanimous consent. On March 6, 2006, Chairman Thomas and U.S. Trade Representative Rob Portman exchanged letters confirming that the Administration will ensure that Ukraine will comply fully with all of the commitments that it will assume as a WTO member before the United States will join the consensus necessary for Ukraine to join the body. On March 8, 2006, the House approved H.R. 1053 to grant PNTR to Ukraine, by a vote of 417–2, with three voting present. On March 9, 2006, the Senate approved H.R. 1053 by unanimous consent. The bill was signed by the President and became law on March 23, 2006 (P.L. 109–205).

Russia’s trade status is also subject to the “Jackson-Vanik” provisions. The President first declared Russia to be in full compliance with the Jackson-Vanik requirements in 1994, and such Presidential certification has been annually renewed. Russia is in the process of acceding to the World Trade Organization. If the United States and Russia are to enjoy a full-fledged trade relationship once Russia joins the WTO, Congress must pass legislation to end the annual Jackson-Vanik review and grant permanent NTR (PNTR). No bills were introduced in the 109th Congress to grant PNTR to Russia. On May 11, 2006, Chairman Thomas, Ranking Member Rangel, Senate Finance Committee Chairman Grassley, and Ranking Member Baucus sent a letter to President Bush expressing concern that Russia has not demonstrated its willingness, ability, and commitment to abide by WTO rules, particularly on enforcement of intellectual property rights and the application of sanitary and phytosanitary measures. The letter stated that until Russia addresses these critical issues in a meaningful way, the signatories would not support granting PNTR to Russia. The United States and Russia made significant progress in addressing the con-

cerns raised in the letter, and on November 10, 2006, both countries announced a bilateral agreement in principle for Russia's accession to the WTO. The bilateral agreement was signed on November 19, 2006.

On July 28, 2005, Congressman Issa introduced H. Con. Res. 230 to address concerns about rampant piracy and a lack of effective intellectual property rights (IPR) protections in Russia. H. Con. Res. 230 expressed the sense of Congress that (1) the Russian Federation should provide effective protection of IPR or it risks losing its eligibility to participate in the Generalized System of Preferences (GSP) program, and (2) as part of its effort to accede to the World Trade Organization, the Russian Federation must ensure that intellectual property is securely protected in law and in practice. On November 16, 2005, the House approved H. Con. Res. 230, by a vote of 421–2. On December 22, 2005, the Senate approved H. Con. Res. 230 by unanimous consent.

Vietnam's trade status is also subject to the "Jackson-Vanik" provisions. Vietnam has received Presidential waivers of Jackson-Vanik provisions since 1998, most recently on June 5, 2006. Congress has not voted on a Jackson-Vanik disapproval resolution since 2002 because no Member has introduced one in time.

Vietnam is in the process of acceding to the World Trade Organization. If the United States and Vietnam are to enjoy a full-fledged trade relationship once Vietnam joins the WTO, the annual Jackson-Vanik review must be ended and replaced with permanent NTR (PNTR). Legislation to grant PNTR to Vietnam was introduced in the House (H.R. 5602) and Senate (S. 3495) on June 13, 2006. The bill was referred to the Committee and placed on the House Suspension Calendar on November 13, 2006, with an amendment to establish a mechanism for the Administration to determine whether Vietnam grants any prohibited subsidies to its textile and apparel industry after its accession to the World Trade Organization (WTO). The bill failed to pass with the requisite two-thirds majority with a vote of 228–161. The provision (with the amendment) was subsequently included in H.R. 6406, which passed the House on December 8, 2006, by a recorded vote of 212–184 and, as described above, was subsequently merged into H.R. 6111, which passed the Senate on December 9, 2006, by a recorded vote of 79–9.

### 13. Trade Preference Legislation.

*Actions taken:* The Subcommittee continued its oversight over the Trade and Development Act of 2000 (P.L. 106–606) (Africa/Caribbean Basin Initiative), the enhancement to these programs contained in the Trade Act of 2002, the Andean Trade Preferences Act, and the AGOA Acceleration Act to ensure that the legislation is being implemented in a manner consistent with Congressional intent. The Subcommittee also examined whether preference programs should be extended to other countries and continued its efforts, begun in the 108th Congress, to extend preferential benefits to Haiti.

On September 21, 2006, Chairman Thomas introduced H.R. 6142, the Trade Preferences Act. The bill would (1) extend the Generalized System of Preferences for two years subject to new limitation on waivers of competitive need limits, (2) extend and enhance apparel and textile benefits under the African Growth and Oppor-



tunity Act including a two-year extension of benefits for apparel using third country fabric and a subsequent value-added rule of origin, and (3) create a new preference program for Haiti. No further action was taken on the bill in the 109th Congress, but an altered version of this legislation was subsequently included in H.R. 6406.

Chairman Thomas introduced H.R. 6406 on December 7, 2006, which included several trade preference provisions to: (1) extend the GSP program for two years subject to a discretionary limitation on waivers of competitive need limits for products that constitute 150 percent of the competitive need limit or 75 percent of U.S. imports of that product; (2) extend the third country fabric benefit under AGOA until 2012, with a full 3.5 percent cap, and allowance of duty free treatment for lesser developed countries for certain textiles of wholly made African fabric; (3) extend the trade preferences for Andean countries (Peru, Colombia, Ecuador, and Bolivia) for six-months, followed by an additional six month extension for each country only if the United States and that country each complete their legislative process to approve a trade promotion agreement; and (4) create additional trade preferences for certain apparel and automotive wire harnesses produced in Haiti. H.R. 6406 passed the House under a rule on December 8, 2006, by a recorded vote of 212–184 and, as described above, was subsequently merged into H.R. 6111, which passed the Senate on December 9, 2006, by a recorded vote of 79–9.

Regarding African trade preferences, the Committee requested ongoing briefings by Administration officials on the operation of the AGOA. On June 6, 2006, the Committee hosted a meeting of over 60 African trade officials to discuss issues of importance to the operation of AGOA and the status of WTO negotiations.

#### 14. Textiles and Apparel.

*Actions taken:* The Subcommittee continued its oversight as to: the value of trade preference programs and their effect on U.S. industries; impact of the elimination of textile quotas in January 2005 on U.S. industries, countries receiving trade preferences, and other countries; effectiveness of efforts to halt illegal transshipment; and the use of textile safeguards (particularly with respect to transparency and application of statutory standards).

On October 24, 2006, Chairman Thomas requested the ITC to conduct a study under section 332 of the Tariff Act of 1930 on certain outerwear and luggage.

#### 15. Sanctions Reform.

*Actions taken:* On September 27, 2006, Congresswoman Ileana Ros-Lehtinen introduced H.R. 6198, the Iran Freedom Support Act, which included provisions that would extend and modify import sanctions. On September 27, 2006, Chairman Thomas and Chairman Hyde exchanged letters acknowledging the jurisdiction of the Committee on Ways and Means and its agreement to forgo consideration of the bill because several amendments supported by the Committee would be included in the bill. On September 28, 2006, the legislation passed the House under suspension of the rules. On September 30, 2006, the bill passed the Senate without amendment by unanimous consent. It was signed into law by the President on September 30, 2006 (P.L. 109–293).

See Burma below.

#### 16. Burma.

*Actions taken:* On July 28, 2003, the President signed into law the “Burmese Freedom and Democracy Act of 2003” (P.L. 108–61) to sanction the ruling Burmese military junta, strengthen Burma’s democratic forces, and support and recognize the National League of Democracy as the legitimate representative of the Burmese people. Among other things, the legislation prohibits the importation into the United States of any article that is a product of Burma (Myanmar) until the President determines and certifies to Congress that Burma has met certain conditions, including that: (1) the State Peace and Development Council (SPDC) has made substantial and measurable progress to end violations of internationally recognized human rights; (2) the SPDC has made measurable and substantial progress toward implementing a democratic government; and (3) Burma has not been designated as a country that has failed demonstrably to make substantial efforts to adhere to its obligations under international counter-narcotics agreements and to take other effective counter narcotics measures. The law authorizes the President to waive such requirements if it is in the U.S. national interest. The import restrictions would expire one year after enactment unless renewed by Congress with a joint resolution meeting certain requirements, and the authority to renew these sanctions annually was initially set to expire in 2006. Congress has annually renewed the import restrictions.

On May 26, 2005, Congressman Lantos introduced H. J. Res. 52 to extend the import sanctions for 1 year. On June 21, 2005, H. J. Res. 52 was approved by the House under a suspension of the rules by a recorded vote of 423–2. On July 19, 2005, the bill passed the Senate without amendment by a recorded vote of 97–1. The President signed H. J. Res. 52 into law on July 27, 2005 (P.L. 109–39).

The most recent renewal was contained in H. J. Res. 86, introduced by Congressman Lantos on May 19, 2006. H. J. Res. 86 extends the import ban for another year and gives Congress the option to annually extend the import ban for 2 additional years if Burma does not make progress in its human rights record and if Congress determines that continued import sanctions are the most appropriate policy to induce change by the Government of Burma. On July 11, 2006, H. J. Res. 86 was approved by the House under a suspension of the rules by a voice vote. On July 26, 2006, the bill passed the Senate without amendment by a voice vote. The President signed H. J. Res. 86 into law on August 1, 2006 (P.L. 109–251).

#### 17. Rules of Origin and Country of Origin Marking.

*Actions taken:* The Subcommittee continued to review and consult with the Administration and the trade community on the status of rules of origin negotiations underway in the World Customs Organization; update rules of origin and country of origin marking to implement those negotiations so they reflect current business production, sales, and distribution practices; review whether U.S. law and U.S. Customs enforcement efforts are effective in preventing unlawful transshipment; and review the implementation labeling requirements by United States and its trading partners with respect to meat, fresh produce, and genetically modified products.

The Committee reviewed proposed changes to the Harmonized Tariff Schedule (HTS), which is modified periodically and then sub-

mitted to the WTO. The proposed changes were submitted to the Committee on May 19, 2006, commencing a sixty-day (legislative) layover period.

On December 7, 2006, Chairman Thomas introduced H.R. 6406, which included a provision to extend the current 15-day period to 30 days for changes to the Harmonized Tariff Schedule to be finalized after publication in a Presidential proclamation to afford the private sector sufficient time to incorporate all of the changes in their computer systems and avoid costly, time-consuming errors to entries. H.R. 6406 passed the House under a rule on December 8, 2006, by a recorded vote of 212–184. Under the rule accompanying H.R. 6111, H.R. 6406 was merged into H.R. 6111, which then passed the Senate on December 9, 2006, by a recorded vote of 79–9. The bill was signed in to law on December 20, 2006.<sup>11</sup>

As noted above, H.R. 6142 and H.R. 6406 both included a provision to grant additional trade preferences for certain apparel and automotive wire harnesses produced in Haiti meeting a new rule of origin.

#### 18. Trade Relations With Japan.

*Actions taken:* On July 14, 2005, Congressman Phil English introduced H.R. 3283, the Trade Rights Enforcement Act, which is described above under legislation related to China. Among other things, the bill urged the President to address Japan's currency interventions and various trade barriers through additional funding to USTR enforcement offices. The bill passed the House on July 27, 2005, by a recorded vote of 255–168.

On September 28, 2005, the Committee held a hearing on United States-Japan economic and trade relations. The hearing focused on (1) Japan's economic problems, their causes, and impact on the United States and world economy; (2) Japan's barriers to agriculture imports such as the ban on U.S. beef, discriminatory government actions against U.S. products, and general non-tariff barriers; (3) Japan's role in the current WTO negotiations; and (4) the recent economic and regulatory reform attempts in Japan, including legislation to privatize major components of Kampo, the Japanese postal entity. Subsequently, in December 2005, Japanese authorities lifted the ban on beef imports from the United States for cattle under 20 months but then suspended imports in January 2006.

On March 5, 2005, and again on May 23, 2005, Chairman Thomas wrote to Japanese Ambassador Kato urging an immediate resumption of trade in U.S. beef. The Committee continued to oversee this issue through the discussions between the Administration and the Government of Japan.

On March 7, 2006, in response to interest by Committee Members on Japan's regulation of competition affecting U.S. sales and trade of medical devices and equipment in Japan, Chairman Thomas requested an ITC 332 investigation.

#### 19. Asia Pacific Economic Cooperation Forum.

*Actions taken:* During the 109th Congress, the United States concluded a free trade agreement (FTA) with APEC member Peru, and began or continued FTA negotiations with APEC members Korea, Malaysia, and Thailand (see other sections of this report for more

<sup>11</sup> At the time of printing, the Public Law number for H.R. 6111 was not available.

information). In addition, during the 109th Congress, the United States concluded separate bilateral agreements with Russia and Vietnam, also APEC members, for each country's accession to the WTO. The Administration and the Committee have consulted regularly on the status of all these separate negotiations and on U.S. negotiating positions. The Committee continued to monitor the status of ongoing talks as well as other U.S. trade policy objectives in Asia that relate to APEC members.

#### *Subcommittee on Health*

##### 1. Medicare Payment for Hospital Services.

*Actions taken:* On July 16, 2006, the Subcommittee held a hearing to receive testimony on initiatives to develop greater price transparency in the health care sector and the impact and benefits of price transparency, including the potential for increased competition, lower costs, and lower spending growth. The Subcommittee received testimony from hospital and insurance industry representatives, and members of the academic community. On December 2, 2005, the Subcommittee held a field hearing on competition and health care price variations in the FEHB program, and received testimony from the Government Accountability Office (GAO), the hospital industry, and business and community leaders. The information will be useful in analyzing and developing future price transparency initiatives. On October 7, 2005, the Subcommittee held a hearing on gainsharing to explore implementation of system changes which include the creation of opportunities for skilled medical service professionals to work together to improve both health care quality and efficiency. Information gathered at the hearing was used to develop a gainsharing demonstration set forth in S. 1932, the Deficit Reduction Act (P.L. 109–171). On March 8, 2005, the Subcommittee held a hearing on physician-owned specialty hospitals, and received testimony from the Medicare Payment Advisory Commission (MedPAC), CMS, and industry representatives, which information was critical in developing the strategic and implementing plan set forth in S. 1932, the Deficit Reduction Act (P.L. 109–171).

##### 2. Medicare Waste Fraud and Abuse.

*Actions taken:* The Subcommittee examined the results of the recovery audit contractor demonstration that was authorized by the Medicare Modernization Act of 2003, and reviewed the results of the demonstration as set forth in a public report issued by the Centers for Medicare and Medicaid Services on November 16, 2006, which identified hundreds of millions of dollars in Medicare overpayments. On the basis of results indicating substantial future savings to Medicare, the Committee expanded the scope and operation of the recovery audit contractor program in the H.R. 6111, the Tax Relief and Health Care Act of 2006.<sup>12</sup>

##### 3. Health Savings Accounts.

*Actions taken:* On June 28, 2006, the full Committee held a hearing on health savings accounts, and received testimony from Treasury representatives and from business and industry representatives regarding the operation of the accounts to date and the need for any changes and improvements. This hearing resulted in infor-

<sup>12</sup> At the time of printing, the Public Law number for H.R. 6111 was not available.

mation that assisted in the full Committee markup on September 27, 2006 of H.R. 6134, the Health Opportunity Patient Empowerment Act of 2006, which contained provisions ultimately enacted into law in the H.R. 6111, the Tax Relief and Health Care Act of 2006.<sup>13</sup>

#### 4. Medicare Program Oversight.

*Actions taken:* On May 3, 2006, the Subcommittee held a hearing to receive testimony from the Centers for Medicare and Medicaid Services and health care professionals concerning implementation of the Medicare drug benefit. On May 4, 2006, at the request of the minority, the Subcommittee held a continuation of the hearing, and received testimony from the Honorable Henry Waxman and health care professionals who were concerned about the structure and design of the Medicare drug benefit. On June 14, 2006, the full Committee held a hearing to receive testimony concerning lessons learned during the implementation of the prescription drug program, the latest beneficiary enrollment figures, and the effect of the initial May 15th enrollment deadline.

#### 5. Medicare Payments for Post-Acute Care.

*Actions taken:* On June 16, 2005, the Subcommittee held a hearing to receive testimony from the Centers for Medicare and Medicaid Services, the Medicare Payment Advisory Commission, U.S. Government Accountability Office, and health care professionals concerning post-acute care. The hearing focused on current financing for post-acute care services in Medicare; the services available across the various post-acute settings; the patient assessment instruments used in each settings and the commonalities between them; and prospects and suggestions for moving ahead with a common patient assessment tool and more rational payment system based on beneficiary need rather than institutional setting. This hearing provided information that was critical to the creation of the Post-Acute Care Demonstration Program in S. 1932, the Deficit Reduction Act (P.L. 109–171).

#### 6. Other Medicare Payment.

*Actions taken:* On April 19, 2005, the Subcommittee held a hearing to receive testimony from the Congressional Budget Office and health care professionals concerning long term care. The hearing focused on current financing for long term care services; the range of services available in the continuum of care from home- and community-based services to nursing home care; private long term care insurance options, including the Long Term Care Partnership programs; and the challenges ahead in financing needed services for an aging population.

On March 15, 2006, the Subcommittee held a hearing to receive testimony from the Centers for Medicare and Medicaid Services, the Medicare Payment Advisory Commission, and health care professionals concerning Medicare payment and coverage policies for long-term acute care hospitals.

On December 6, 2006, the full Committee on Ways and Means held a hearing on Patient Safety and Quality Issues in End Stage Renal Disease (ESRD) Treatment. This hearing identified potential safety concerns regarding the utilization of drugs used in ESRD settings. However, there is also a concern regarding appropriate re-

<sup>13</sup> At the time of printing, the Public Law number for H.R. 6111 was not available.

imbursement for ESRD facilities. The Tax Relief and Health Care Act of 2006 (H.R. 6111) provides a 1.5 percent update to the composite rate for ESRD facilities in 2007.

#### 7. Medicare Payments for Physician Services.

*Actions taken:* On February 10, 2005, the Subcommittee held a hearing to receive testimony from the U.S. Government Accountability Office, the Medicare Payment Advisory Commission, and health care professionals concerning Medicare payments to physicians. On March 15, 2005, the Subcommittee held a hearing to receive testimony from the Centers for Medicare and Medicaid Services and health care professionals concerning measuring physician quality and efficiency of care for Medicare. The hearing focused on identifying the steps being taken by CMS and others to measure quality and efficiency of physician care. On July 21, 2005, the Subcommittee held a hearing to receive testimony from the U.S. Department of Health and Human Services and health care professionals concerning value-based purchasing for physicians under Medicare. The hearing focused on developments since the last Subcommittee hearing in March on physician payments and value-based purchasing. On September 29, 2005, the Subcommittee held a legislative hearing to receive testimony from the Centers for Medicare and Medicaid Services and health care professionals concerning the Medicare Value-Based Purchasing for Physicians Act. These hearings assisted in developing legislation that provides a bonus for the reporting of quality measures in 2007. The Tax Relief and Health Care Act of 2006 (H.R. 6111) also establishes a physician assistance and quality initiative fund to allow CMS to continue quality initiatives for physicians.

#### 8. New Technologies in the Medicare Program.

*Actions taken:* On April 6, 2006, the Subcommittee held a hearing to receive testimony from the U.S. Department of Health and Human Services and others concerning the development and use of health care information technology. On July 27, 2005, the Subcommittee held a hearing to receive testimony from the U.S. Department of Health and Human Services and health care professionals concerning health care information technology, and the approach being taken by the Administration to speed the adoption of health IT and areas where congressional involvement can further these efforts. The information gathered from these hearings assisted in development and House passage of the Health Information Technology Promotion Act of 2006 (H.R. 4157).

#### 9. Medically Uninsured.

*Actions taken:* On July 27, 2006, the Subcommittee held a hearing to receive testimony from emergency care professionals and others concerning emergency care.

### *Subcommittee on Human Resources*

#### 1. Welfare Reform.

*Actions taken:* The Subcommittee held a hearing on February 10, 2005 on welfare reform reauthorization proposals and related programs. Witnesses testified about the Temporary Assistance for Needy Families (TANF) program, including recommendations for further reforms to promote additional work by parents and self-sufficiency for families. In addition, the Subcommittee heard testimony about the need for States to help every family they serve

achieve the greatest degree of self-sufficiency and find effective ways to improve child well-being through programs aimed at promoting healthy marriages and encouraging responsible fatherhood. The Subcommittee received testimony about other programs under its jurisdiction, including Child Support Enforcement, Foster Care and Adoption Assistance, and Supplemental Security Income, from a wide variety of witnesses.

U.S. Department of Health and Human Services (HHS) Secretary Michael Leavitt testified before the full Committee on February 17, 2005 regarding the President's fiscal year 2006 budget proposals for HHS. During his testimony HHS Secretary Leavitt discussed the TANF program and the Administration's proposals for reauthorization.

On July 14, 2005 the Subcommittee held a hearing on welfare and work data, highlighting additional resources States can access to determine whether adults on welfare are working and how to better target work supports to assist them. Using data from the National Directory of New Hires and welfare caseload information, HHS reported there are thousands more current and former welfare recipients working than States had reported. This new information offered important implications for the next stage of welfare reform, including that it is appropriate for Federal policy to expect and support more work among parents on welfare.

On February 8, 2006 the full Committee held a hearing on the President's fiscal year 2007 budget proposal for HHS. HHS Secretary Leavitt testified about implementation of the welfare reform reauthorization provisions included in the "Deficit Reduction Act of 2005" (P.L. 109-171), among other matters.

On July 19, 2006 the full Committee held a hearing to review outcomes of the 1996 welfare reforms. Witnesses included the former Speaker of the U.S. House of Representatives Newt Gingrich, former Wisconsin Governor and HHS Secretary Tommy Thompson, Sen. Rick Santorum (R-PA), and other welfare policy experts.

A full Committee hearing on the Impacts of Border Security and Immigration on Ways and Means Programs was held on July 26, 2006. A witness representing the HHS discussed immigrant use of TANF program benefits, including among "child only" households that may include an illegal alien parent.

## 2. Child Support and Fatherhood.

*Actions taken:* At the Subcommittee's February 10, 2005 hearing on welfare reform proposals, child support and fatherhood provisions of the President's budget proposal and H.R. 240 were discussed.

In a June 30, 2005 report (GAO-05-839R) to Subcommittee Chairman Wally Herger, the U.S. Government Accountability Office (GAO) provided background about administrative expenditures and Federal matching rates for selected programs including Child Support Enforcement, Foster Care, Adoption Assistance, Child Care, Medicaid, and Food Stamps. In a subsequent letter to Chairman Herger on September 9, 2005, GAO further explained that, in terms of child support program costs, "the Federal government's share represented 88 percent of the net costs for the child support enforcement program for fiscal year 2004," among other data. Numerous Child Support Enforcement program reforms were included

in the “Deficit Reduction Act of 2005” (P.L. 109–171), reflecting the Subcommittee’s oversight activities and investigations of ways to improve the efficiency of program operation.

### 3. Supplemental Security Income (SSI).

*Actions taken:* On September 27, 2005 the Subcommittee held a joint hearing with the Subcommittee on Social Security on the Commissioner of Social Security’s proposed improvements to the disability determination process. Witnesses included The Honorable Jo Anne B. Barnhart, Commissioner, Social Security Administration; State and local program administrators; policy experts; and members of the legal community. The Subcommittees heard testimony about the possible effects of the improvements in the disability determination process, including a possible reduction in processing time of at least 25 percent.

The witness list for a full Committee hearing on the Impacts of Border Security and Immigration on Ways and Means Programs on July 26, 2006 included the Commissioner of the Social Security Administration. In testimony and follow-up questioning, the Commissioner discussed implications of immigration on the SSI program.

The “Deficit Reduction Act of 2005” (P.L. 109–171) included two SSI program reforms, designed to improve the accuracy of disability determinations and benefit awards, among other program goals.

### 4. Child Protection, Foster Care, and Adoption Assistance.

*Actions taken:* The Subcommittee held a hearing on February 10, 2005 on welfare reform reauthorization proposals and related programs. The Subcommittee received testimony about other programs under its jurisdiction, including Child Protection and Foster Care and Adoption Assistance, from a wide variety of witnesses.

U.S. Department of Health and Human Services Secretary Michael Leavitt testified before the full Committee on February 17, 2005 regarding the President’s fiscal year 2006 budget proposals for HHS, including involving Child Protection, Foster Care, and Adoption Assistance programs.

At a Subcommittee hearing on May 18, 2005 testimony was heard on protections for foster children enrolled in clinical drug trials. Witnesses included a representative from the Administration, State and local program administrators, and policy experts. Testimony described conditions under which participation of children in foster care is permitted, as well as allegations involving the inappropriate enrollment of foster children in such trials.

On June 9, 2005 the Subcommittee held a hearing on foster care financing. Witnesses included a representative from the Administration, State and local program administrators, and policy experts. Testimony was heard on the funding structure for the title IV–E Federal Foster Care program, including key weaknesses in the program and how the President’s proposal to establish a Child Welfare Program Option would address these weaknesses.

On February 8, 2006 the full Committee held a hearing on the President’s fiscal year 2007 budget proposal for HHS. The Secretary of HHS, Michael Leavitt testified about reauthorization of the Promoting Safe and Stable Families program, among other matters.

On May 23, 2006 the Subcommittee held a hearing to review proposals to improve child protection services. Testimony was heard



from representatives of numerous charitable and trade associations, including on specific proposals to extend and improve several child protection services programs under the Subcommittee's jurisdiction, including the Promoting Safe and Stable Families and Child Welfare Services programs.

Many child protection program reforms resulting from these oversight hearings were included in the "Deficit Reduction Act of 2005" (P.L. 109-171) and the "Child and Family Services Improvement Act of 2006" (P.L. 109-288).

#### 5. Unemployment Compensation.

*Actions taken:* On March 16, 2005 the full Committee held a hearing on the President's fiscal year 2006 budget for the U.S. Department of Labor.

A hearing to review the implementation of the "SUTA (State Unemployment Tax Act) Dumping Prevention Act of 2004" (P.L. 108-295) was held by the Subcommittee on June 14, 2005. The Subcommittee heard testimony on how the law prevented the abusive practice of SUTA dumping by certain employers, on how the law gave States additional tools to identify individuals who continued receiving unemployment benefits even after taking a new job, on the status of State implementation of these provisions, and on recommendations for further improvements.

At a March 15, 2006 Subcommittee hearing, the U.S. Government Accountability Office testified on new research on characteristics of unemployment compensation recipients and actions States could take to better ensure unemployed individuals quickly return to work.

On April 5, 2006 the Subcommittee held a hearing on the use of technology to improve public benefits programs. Testimony was submitted by State administrators, program and information specialists, and other experts. The hearing focused on methods of improving the provision of unemployment compensation and other benefits, including in the wake of hurricanes and other natural disasters.

The Subcommittee held a May 24, 2006 hearing on the unemployment compensation aspects of the U.S. Department of Labor's fiscal year 2007 budget. Witnesses included a representative from the Administration, a State program administrator, and other interested parties. Testimony was heard on the funding structure of the unemployment compensation program, the behavioral effects of the programs, efforts to prevent fraud and abuse, and potential reforms to more quickly help unemployed individuals return to work.

#### 6. Repatriation.

*Actions taken:* Concurrent with the House passage of H.R. 5865, the "Returned Americans Protection Act of 2006," which the President signed on July 27, 2006 (P.L. 109-250), Chairman Thomas received the assurance of HHS Secretary Leavitt that the HHS Inspector General will report to Congress by March 1, 2007 on how repatriation program funds were spent to assist those repatriating to the U.S. from Lebanon in 2006. This report is to include a breakdown of administrative costs versus direct assistance such as travel and lodging expenses for those assisted. This additional information will help Congress fulfill its responsibility to ensure the proper use of taxpayer funds under this program.

*Subcommittee on Social Security*

## 1. Hearings on Strengthening Social Security.

*Actions taken:* The Subcommittee on Social Security held an eight-hearing series on protecting and strengthening Social Security.

On May 17, 2005, the Subcommittee held the first hearing in the series, examining the evolution of the Social Security program to provide benefits for not only retired workers but also vulnerable populations, such as individuals with disabilities, homemakers, widows and widowers, and children. The Subcommittee heard testimony from the Commissioner of Social Security, the Government Accountability Office (GAO), and policy experts. Witnesses discussed the need to preserve benefits for vulnerable groups while updating the program to reflect changes in women's workforce participation, marriage and divorce trends, and other factors influencing the retirement income needs of American families.

The Subcommittee held the second hearing in the series on May 24, 2005. The Subcommittee examined how the Social Security Trustees project the financial outlook for Social Security under current law. The Subcommittee heard testimony from the Chief Actuary of the Social Security Administration (SSA), who reviewed the program's estimated financial outlook, the basic assumptions the Trustees use to make their estimates, and some potential changes in benefit growth or tax revenue that could strengthen the program's finances. The Chief Actuary also stated that by acting as soon as possible, policy makers would have more options to consider, would be able to phase in changes more gradually, and could give affected individuals more advance notice.

The Subcommittee held the third hearing in the series on May 26, 2005. This hearing provided Members of the House of Representatives an opportunity to testify on Social Security issues of importance to their constituents, including views and proposals on how to protect and strengthen the program. Twenty Members of the House of Representatives testified at the hearing.

The Subcommittee held the fourth hearing in the series on June 9, 2005. The Subcommittee examined Social Security provisions affecting certain public employees, such as the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP), and exemption of certain public employees from Social Security coverage. Testimony was provided by representatives from the SSA, the GAO, and organizations representing public employees and employers affected by these provisions. The SSA and the GAO witnesses discussed the rationale for the GPO and WEP: to ensure public employees in jobs not covered under Social Security are treated similarly to workers who are covered under Social Security. Witnesses from organizations representing employees discussed the effects of these provisions on their members and recommended repealing or modifying the GPO and WEP. Some witnesses also testified that requiring Social Security coverage of all newly hired public employees could negatively affect public employee pension plans.

The Subcommittee held the fifth hearing in the series on June 14, 2005. The Subcommittee examined the impact of the American population's increasing longevity on Social Security's finances and explored ways to encourage work at older ages. The Subcommittee heard testimony from policy experts who described the effects of

growing life expectancies on the Social Security program and the economy and made various recommendations to modify the program so as to encourage labor force participation among seniors who are willing and able to work.

The Subcommittee held the sixth hearing in the series on June 16, 2005. The Subcommittee examined international experiences with social security reform. The Subcommittee heard testimony from the GAO and policy experts. Witnesses described modifications in social security program benefits and financing undertaken in many other countries, including the introduction of personal accounts to advance-fund varying portions of benefits. Witnesses also discussed what the United States could learn from the experiences of other countries.

The Subcommittee held the seventh hearing in the series on June 21, 2005. The Subcommittee examined the impact of economic trends on Social Security's financing and retirement security. The Subcommittee heard testimony from the Director of the CBO and policy experts. The CBO Director discussed the effects of four economic factors on Social Security's financial outlook: the growth of earnings, the interest rate used to compute the interest credited to the trust funds, employment, and inflation. The Director also discussed the economic benefits of increasing national saving, which potentially could be accomplished by adding personal accounts to Social Security. Policy expert witnesses discussed the effect of various economic and demographic trends on Social Security, as well as how reductions in benefit growth, increases in Social Security taxes, and advance-funding Social Security benefits through personal accounts would affect the economy and beneficiaries.

The Subcommittee held the eighth and final hearing in the series on June 23, 2005. The Subcommittee examined options for designing a system of personal retirement accounts to ensure that the accounts are managed efficiently and accurately, with low administrative fees to preserve account balances. Options for paying out account balances at retirement were also examined. The Subcommittee heard testimony from representatives of the SSA and the GAO, along with policy experts. In general witnesses stated that centralized administration that takes advantage of economies of scale would keep administrative costs low. Witnesses also discussed options for converting personal account balances into a stream of lifetime income. Witnesses also explored options for distributing or dividing personal accounts at certain life events, such as death or divorce, and options for allocating account contributions during a couple's marriage.

## 2. Hearings to Examine the use of the Social Security Number.

*Actions taken:* The Subcommittee on Social Security held a five-hearing series on Social Security number (SSN) high-risk issues.

The Subcommittee held the first hearing in the series on November 1, 2005. The Subcommittee examined the SSA's management of the SSN enumeration process, including the following: the history of SSNs, how they are assigned, how SSNs are used today within the agency and the Federal Government, issues related to changing the SSN card, Federal laws protecting SSNs, and agency efforts to limit SSN fraud and abuse. The Subcommittee heard testimony from those representing the SSA and the SSA Office of the Inspector General (OIG). The witnesses discussed challenges re-

garding the use of the SSN, and the need to balance quick assignment of numbers to individuals who qualify for them with prevention of SSN fraud and abuse.

The Subcommittees on Social Security and Oversight jointly held the second hearing in the series on February 16, 2006. The Subcommittees examined how employers report wages to the SSA, the effects of incorrect wage reports on administration of the Social Security program and tax administration, and enforcement of hiring and wage-reporting responsibilities by the Department of Homeland Security (DHS) and the Internal Revenue Service (IRS). Witnesses from the IRS, the SSA, the DHS, the GAO, and the SSA OIG testified. Witnesses discussed the current process by which employers report earnings to the SSA, voluntary programs offered by the SSA and the DHS that employers may use to verify employees' SSNs and employment eligibility status, and enforcement of tax and immigration laws. Witnesses also discussed options to potentially detect work by unauthorized immigrants through data sharing.

The Subcommittee held the third hearing in the series on March 2, 2006. The Subcommittee examined the SSA's management of the assignment of SSNs and the payment of benefits to foreign-born individuals. Witnesses from the SSA, the SSA OIG, and the GAO discussed how SSNs are assigned to foreign-born individuals; the role of SSNs in work authorization; current law regarding Social Security coverage and benefits of non-citizens; the SSA's administration of totalization agreements; and proposals to improve the integrity of the enumeration process, improve stewardship of totalization agreements, and modify Social Security coverage and benefits for non-citizens.

The Subcommittee held the fourth hearing in the series on March 16, 2006. The Subcommittee examined expanding uses of the SSN card and measures to prevent SSN card fraud. The Subcommittee also heard the testimony of witnesses from the SSA, the SSA OIG, and policy experts regarding the history of SSNs and SSN card use, the role of the SSN card in work authorization, measures to prevent SSN card fraud, and the potential effects of transforming the SSN card into an identification document.

The Subcommittee held its fifth and final hearing in the series on March 30, 2006. The Subcommittee examined the role of SSNs in identity theft and options to enhance SSN privacy. The Subcommittee heard testimony by witnesses from the Federal Trade Commission, the GAO, public record administrators, private investigators, the financial services industry, and an identity theft victim. Witnesses discussed the role of SSNs in abetting identity theft, and the effects of proposals to prohibit or restrict the use, sale, purchase, or display of SSNs by individuals, businesses, or the government. Also, at the beginning of the hearing, two Members provided testimony regarding their proposal to add certain security features to SSN cards.

3. Hearings to Examine Disability Program Reform and Oversight.

*Actions taken:* On September 27, 2005, the Subcommittee on Social Security held a joint hearing with the Subcommittee on Human Resources on the Commissioner of Social Security's proposed improvements to the disability determination process. The

Subcommittees examined Commissioner Barnhart's proposed regulations for the disability determination process and new return-to-work demonstration projects. Witnesses included the Commissioner of Social Security; the Chair of the Judicial Conference Committee, Federal-State Jurisdiction, Administrative Office of the U.S. Courts; the Co-Chair of the Social Security Task Force, Consortium for Citizens with Disabilities; and representatives from other interested organizations. Witnesses discussed the new approach proposed by the SSA, the objective of the changes made, and their potential effect on the Social Security disability claims process.

On June 15, 2006, the Subcommittee held a hearing on Social Security's improved disability determination process. During this hearing the Subcommittee examined the SSA's final regulation, including how the Agency addressed public comments in developing its final rule and how implementation will proceed. Testimony was heard from the Commissioner of Social Security, along with representatives from the GAO, the Social Security Task Force of the Consortium for Citizens with Disabilities, the Federal Bar, the National Organization of Social Security Claimant's Representatives, and employee organizations.

#### 4. Hearings to Examine Stewardship of the Social Security Programs.

*Actions taken:* The Subcommittee has continued its oversight of the stewardship of the Social Security programs through the five-hearing series on Social Security number (SSN) high-risk issues summarized above and through discussions with, and reports requested from, the SSA, the GAO, the SSA OIG, and interested parties.

#### 5. Hearings to Examine Service Delivery.

*Actions taken:* On May 11, 2006, the Subcommittee held a hearing on Social Security service delivery challenges. The Subcommittee heard testimony about the current service delivery challenges facing the SSA and how the President's budget request will help address those challenges. The Commissioner of Social Security presented testimony on the delivery of traditional services, stewardship, staffing, new enumeration procedures, and the Medicare prescription drug program.

In addition, Subcommittee Chairman McCreery has received the following studies/reports requested by the Subcommittee from the GAO: (1) Social Security Numbers—Internet Resellers Provide Few Full SSNs, but Congress Should Consider Enacting Standards for Truncating SSNs; (2) Social Security Numbers—Stronger Protections Needed When Contractors Have Access to SSNs; (3) Social Security Reform—Other Countries' Experiences Provide Lessons for the United States; (4) Social Security Reform—Implications of Different Indexing Choices; (5) Social Security—Better Coordination Among Federal Agencies Could Reduce Unidentified Earnings Reports; (6) Immigration Enforcement: Benefits and Limitations To Using Earnings Data To Identify Unauthorized Work; (7) Social Security Statements—Social Security Administration Should Better Evaluate Whether Workers Understand Their Statements; and (8) Social Security Administration—A More Formal Approach Could Enhance SSA's Ability To Develop and Manage Totalization Agreements.

Also, Chairman McCreery has requested the following studies from the GAO that are ongoing: (1) the effect of options to modify the Social Security benefit formula on benefits payable under the disability insurance and survivor's insurance programs, and on the spouses and children of retired and disabled workers; (2) vocational rehabilitation outcomes for the SSA's disability beneficiaries; (3) the role of the judicial appeals process in Social Security claims adjudication; and (4) Social Security Administration's disability claims backlog.

### C. ADDITIONAL OVERSIGHT ACTIVITIES AND ANY RECOMMENDATION OR ACTIONS TAKEN

#### 1. ADDITIONAL OVERSIGHT ACTIVITIES OF THE OVERSIGHT SUBCOMMITTEE

##### *a. Investigation of the tax-exempt treatment of intercollegiate athletics revenue*

*Actions taken:* During 2006, Chairman Thomas initiated an inquiry into the tax-exempt treatment of intercollegiate athletics revenue. The Subcommittee interviewed numerous officials from the National Collegiate Athletic Association (NCAA), athletic conferences, football bowl organizations, and college sports reform groups. Chairman Thomas sent an eight-page letter to the president of the NCAA requesting responses to questions relating to the educational purpose and financial condition of college sports. The letter raised numerous issues, including whether the NCAA was accomplishing its tax-exempt, educational mission; how massive expenditures on state-of-the-art athletic facilities, coaches' salaries, and lavish travel arrangements furthered the educational mission of universities; and why the NCAA distributes over \$100 million each year based on athletic rather than academic performance.

##### *b. Failure of the electronic fraud detection system*

*Actions taken:* The Subcommittee investigated the failure of the IRS and its contractor, the Computer Sciences Corporation (CSC), to implement an updated electronic system to detect fraudulent tax returns in 2006. This failure cost taxpayers hundreds of millions of dollars and permitted criminals who intentionally filed false returns to defraud the Federal government. In addition, the IRS paid CSC \$18.5 million for more than two years of work that never resulted in a functional product. In a letter to Treasury Secretary Henry Paulson, Chairman Thomas requested that the appropriate individuals be held accountable, future efforts to implement the Electronic Fraud Detection System be closely monitored, and that the IRS's dependence on CSC for modernizing IRS business systems be reexamined.

##### *c. Review of credit union tax exemption*

*Actions taken:* In November 2006, the National Credit Union Administration (NCUA) released a report on the income characteristics of credit union membership and executive compensation. The NCUA report recommended expanding data collection efforts and enhancing transparency with respect to executive compensation.

Chairman Thomas requested that the National Association of State Credit Union Supervisors (NASCUS) begin to collect data re-

lating to executive compensation, membership, services, credit union service organizations and unrelated business income tax. NASCUS will report their findings to Congress in 2007.

The Government Accountability Office (GAO) released two reports—one on credit union transparency and the other on corporate governance and the objectivity of the NCUA on December 1, 2006, on behalf of Chairman Thomas. Analyzing data from the Federal Reserve’s 2004 Survey of Consumer Finances, GAO found that banks were still serving a higher percentage of lower- and moderate-income households than credit unions. GAO also determined that compensation of credit union executives was not transparent. GAO recommended that the NCUA enhance transparency with respect to executive compensation and adopt practices employed by other financial regulators to enhance the independence and objectivity of the NCUA and maintain an arm’s-length relationship with the regulated industry.

*d. Further review of the Red Cross and its disaster preparedness in 2006*

*Actions taken:* The Subcommittee requested the Government Accountability Office (GAO) to review the response by the Red Cross to Hurricane Katrina. The purpose of the review was to determine whether the Red Cross fulfilled its responsibility in the National Response Plan to coordinate federal mass care assistance. The GAO concluded that the Red Cross and the Federal Emergency Management Agency (FEMA) disagreed about their roles and responsibilities, which strained their working relationships and hampered their efforts to coordinate relief services for hurricane victims. The report recommended that the Red Cross and FEMA agree on operating procedures and improve the tracking of relief resources, and the report called for the Red Cross to implement certain staffing strategies. Furthermore, the Subcommittee interviewed the former Red Cross president, as well as the chairman of the board of directors, to identify the causes for certain failures in the Red Cross’s response to Hurricane Katrina and to determine whether structural changes at the Red Cross were necessary.

*e. Policies and procedures of the U.S. Tax Court*

*Actions taken:* In March 2005, the Supreme Court held that the U.S. Tax Court had been using invalid procedures to handle certain cases heard by Special Trial Judges, a group of junior judges at the Tax Court. The Supreme Court held that the Tax Court had been improperly requiring original opinions drafted by Special Trial Judges to be kept confidential. These original opinions had to be reviewed by Presidentially-appointed Tax Court judges before they could be adopted. In some cases, Presidentially-appointed judges made significant changes to the original opinion drafted by the Special Trial Judge, even though the appointed judge had never participated in the trial. The Supreme Court found that this procedure was improper (See *Ballard et ux. v. Commissioner of Internal Revenue*, 544 U.S. 40 (2005)). The Supreme Court’s decision led to questions about the way the Tax Court had handled almost 1,000 similar taxpayer cases. The Subcommittee reviewed the Tax Court’s procedures to develop a better understanding of why the Tax Court was using these defective procedures, the scope of the

problem, the effect on taxpayers, and potential solutions to address the problem.

*f. GAO review of the feasibility of sharing new hires data with law enforcement for child abduction cases*

*Actions taken:* The Subcommittees on Human Resources and Oversight requested that the Government Accountability Office (GAO) conduct a study to determine whether the National Directory of New Hires (NDNH) could be used to assist law enforcement agencies locate convicted sex offenders. The Government Accountability Office (GAO) recommends granting Health and Human Services (HHS) the ability to provide NDNH data to the Federal Bureau of Investigation (FBI) and directs HHS and the FBI to conduct a test match of data from the National Sex Offender Registry (NSOR) and NDNH. Conducting a test match will help to assess the costs, benefits and validity that come about from matching the two databases. The report also addressed privacy and security concerns with expanding access to this data.

*g. Examination of donor-advised funds and supporting organizations*

*Actions taken:* The Committee on Ways and Means requested the Government Accountability Office (GAO) to examine the federal laws and regulations related to donor-advised funds and supporting organizations, compared to the laws and regulations for private foundations. The GAO was asked to identify areas where donor-advised funds and supporting organizations may not be complying with the law. The GAO was also requested to collect information on the financial and organizational characteristics of donor-advised funds and supporting organizations. The GAO found that some of these organizations were being used in abusive schemes to benefit donors or other related parties. Since donor-advised assets often range in the billions of dollars, compared to the assets of supporting organizations and private foundations which range in the hundreds of billions, this became a cause for concern. The IRS, however, often faces challenges gathering evidence or addressing activities that do not clearly benefit charities because some of these activities do not violate current law. The GAO recommended that the IRS collect additional data to determine the payout rate to charities; to track the relationships between organizations; and to monitor loans made to officers, donors, and others associated with the charity. The Pension Protection Act of 2006 (P.L. 109–280) included several reforms to improve the accountability of donor-advised funds and supporting organizations.

## 2. ADDITIONAL OVERSIGHT ACTIVITIES OF THE COMMITTEE

On July 26, 2006, the full Committee held a hearing on the impacts of border security and immigration on Ways and Means programs. The Committee heard testimony by witnesses from the Department of Homeland Security, the Department of Health and Human Services, the Internal Revenue Service, the Social Security Administration, and policy experts on the effect of immigration and border security-related proposals on the costs and administration of certain entitlement programs within the jurisdiction of the Committee on Ways and Means (including Social Security, Supple-



mental Security Income, Medicare, and Temporary Assistance for Needy Families), and the effect on tax revenues and compliance. Representatives Shaw, Lewis of Kentucky, and Chocoma followed up on this hearing by hosting forums in their districts to explore these issues further on a local level. Information gathered during the Members' forums and the full Committee hearing was related by Chairman Thomas during his testimony before the Republican Policy Committee on September 12, 2006.

## **Appendix I. Jurisdiction of the Committee on Ways and Means**

### **A. U.S. CONSTITUTION**

Article I, Section 7, of the Constitution of the United States provides as follows:

All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

In addition, Article I, Section 8, of the Constitution of the United States provides the following:

The Congress shall have Power To lay and collect Taxes,  
Duties, Imposts and Excises, to pay the Debts and \* \* \*  
To borrow Money on the credit of the United States.

### **B. RULE X, CLAUSE 1, RULES OF THE HOUSE OF REPRESENTATIVES**

Rule X, clause 1(s), of the Rules of the House of Representatives, in effect during the 109th Congress, provides for the jurisdiction of the Committee on Ways and Means, as follows:

(s) Committee on Ways and Means.

- (1) Customs revenue, collection districts, and ports of entry and delivery.
- (2) Reciprocal trade agreements.
- (3) Revenue measures generally.
- (4) Revenue measures relating to insular possessions.
- (5) Bonded debt of the United States, subject to the last sentence of clause 4(f).

Clause 4(f) requires the Committee on Ways and Means to include in its annual report to the Committee on the Budget a specific recommendation, made after holding public hearings, as to the appropriate level of the public debt that should be set forth in the concurrent resolution on the budget.

- (6) Deposit of public monies.
- (7) Transportation of dutiable goods.
- (8) Tax-exempt foundations and charitable trusts.
- (9) National Social Security (except health care and facilities programs that are supported from general revenues as opposed to payroll deductions and except work incentive programs).

### **C. BRIEF DESCRIPTION OF COMMITTEE'S JURISDICTION**

The foregoing recitation of the provisions of House Rule X, clause 1, paragraph(s), does not convey the comprehensive nature of the

jurisdiction of the Committee on Ways and Means. The following summary provides a more complete description:

(1) Federal revenue measures generally.—The Committee on Ways and Means has the responsibility for raising the revenue required to finance the Federal Government. This includes individual and corporate income taxes, excise taxes, estate taxes, gift taxes, and other miscellaneous taxes.

(2) The bonded debt of the United States.—The Committee on Ways and Means has jurisdiction over the authority of the Federal Government to borrow money. Title 31 of Chapter 31 of the U.S. Code authorizes the Secretary of the Treasury to conduct any necessary public borrowing subject to a maximum limit on the amount of borrowing outstanding at any one time. This statutory limit on the amount of public debt (“the debt ceiling”) currently is \$8.965 trillion. The Committee’s jurisdiction also includes conditions under which the U.S. Department of the Treasury manages the Federal debt, such as restrictions on the conditions under which certain debt instruments are sold.

(3) National Social Security programs.—The Committee on Ways and Means has jurisdiction over most of the programs authorized by the Social Security Act, which includes not only those programs that are normally referred to colloquially as “Social Security” but also social insurance programs and a whole series of grant-in-aid programs to State governments for a variety of purposes. The Social Security Act, as amended, contains 21 titles (a few of which have either expired or have been repealed). The principal programs established by the Social Security Act and under the jurisdiction of the Committee on Ways and Means in the 109th Congress can be outlined as follows:

(a) Old-age, survivors, and disability insurance (Title II)—At present, there are approximately 162 million workers in employment covered by the program, and for calendar year 2005, \$521 billion in benefits were paid to 48 million individuals.

(b) Medicare (Title XVIII)—Provides hospital insurance benefits to 35.2 million persons over the age of 65 and to 6.7 million disabled persons. Voluntary supplementary medical insurance is provided to 33.7 million aged persons and 6 million disabled persons. Total program outlays under these programs were \$330 billion in 2005.

(c) Supplemental Security Income (SSI) (Title XVI)—The SSI program was inaugurated in January 1974 under the provisions of P.L. 92–603, as amended. It replaced the former Federal-State programs for the needy aged, blind, and disabled. In January 2006, 6.9 million individuals received Federal SSI benefits on a monthly basis. Of these 6.9 million persons, approximately 1.1 million received benefits on the basis of age, and 5.8 million on the basis of blindness or disability. Federal expenditures for cash SSI payments in 2005 totaled \$36 billion, while State expenditures for federally administered SSI supplements totaled \$5.1 billion.

(d) Temporary Assistance for Needy Families (TANF) (part A of Title IV)—The TANF program is a block grant of about \$16.5 billion dollars awarded to States to provide income assistance to poor families, to end dependency on welfare benefits, to prevent nonmarital births, and to encourage marriage,

among other purposes. In most cases, Federal TANF benefits for individuals are limited to 5 years and individuals must work to maintain their eligibility. In June 2006, about 1.8 million families and 4.1 million individuals received benefits from the TANF program.

(e) Child support enforcement (part D of Title IV)—In fiscal year 2003 Federal administrative expenditures totaled \$5.2 billion for the child support enforcement program. Child support collections for that year totaled \$21.2 billion.

(f) Child welfare, foster care, and adoption assistance (parts B and E of Title IV)—Titles IV B and E provide funds to States for child welfare services for abused and neglected children; foster care for children who meet Aid to Families with Dependent Children eligibility criteria; and adoption assistance for children with special needs. In fiscal year 2005, Federal expenditures for child welfare services totaled \$702 million. Federal expenditures for foster care and adoption assistance were approximately \$6.7 billion.

(g) Unemployment compensation programs (Titles III, IX, and XII)—These titles authorize the Federal-State unemployment compensation program and the permanent extended benefits program. Between July 1, 2005, and June 30, 2006, an estimated \$30.3 billion was paid in unemployment compensation, with approximately 7.4 million workers receiving unemployment compensation payments.

(h) Social services (Title XX)—Title XX authorizes the Federal Government to reimburse the States for money spent to provide persons with various services. Generally, the specific services provided are determined by each State. In fiscal year 2005, \$1.7 billion was appropriated. These funds are allocated on the basis of population.

(4) Trade and tariff legislation.—The Committee on Ways and Means has responsibility over legislation relating to tariffs, import trade, and trade negotiations. In the early days of the Republic, tariff and customs receipts were major sources of revenue for the Federal Government. As the Committee with jurisdiction over revenue-raising measures, the Committee on Ways and Means thus evolved as the primary Committee responsible for international trade policy.

The Constitution vests the power to levy tariffs and to regulate international commerce specifically in the Congress as one of its enumerated powers. Any authority to regulate imports or to negotiate trade agreements must therefore be delegated to the executive branch through legislative action. Statutes including the Reciprocal Trade Agreements Acts beginning in 1934, Trade Expansion Act of 1962, Trade Act of 1974, Trade Agreements Act of 1979, Trade and Tariff Act of 1984, Omnibus Trade and Competitiveness Act of 1988, North American Free Trade Agreement (NAFTA) Implementation Act, Uruguay Round Agreements Act, and Trade Act of 2002 provide the basis for U.S. bargaining with other countries to achieve the mutual reduction of tariff and nontariff trade barriers under reciprocal trade agreements.

The Committee's jurisdiction includes the following authorities and programs:

(a) The tariff schedules and all tariff preference programs, such as the General System of Preferences and the Caribbean Basin Initiative;

(b) Laws dealing with unfair trade practices, including the antidumping law, countervailing duty law, section 301, and section 337;

(c) Other laws dealing with import trade, including section 201 (escape clause), section 232 national security controls, section 22 agricultural restrictions, international commodity agreements, textile restrictions under section 204, and any other restrictions or sanctions affecting imports;

(d) General and specific trade negotiating authority, as well as implementing authority for trade agreements and the grant of normal-trade-relations (NTR) status;

(e) General and NAFTA-related TAA programs for workers, and TAA for firms;

(f) Customs administration and enforcement, including rules of origin and country-of origin marking, customs classification, customs valuation, customs user fees, and U.S. participation in the World Customs Organization (WCO);

(g) Trade and customs revenue functions of the Department of Homeland Security and the Department of the Treasury.

(h) Authorization of the budget for the International Trade Commission (ITC), functions of the Department of Homeland Security under the Committee's jurisdiction, and the Office of the U.S. Trade Representative (USTR).

#### D. REVENUE ORIGINATING PREROGATIVE OF THE HOUSE OF REPRESENTATIVES

The Constitutional Convention debated adopting the British model in which the House of Lords could not amend revenue legislation sent to it from the House of Commons. Eventually, however, the Convention proposed and the States later ratified the Constitution providing that "All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills." (Article 1, Section 7, clause 1.)

In order to pass constitutional scrutiny under this "origination clause," a tax bill must be passed first by the House of Representatives. After the House has completed action on a bill and approved it by a majority vote, the bill is transmitted to the Senate for formal action. The Senate may have already reviewed issues raised by the bill before its transmission. For example, the Senate Committee on Finance frequently holds hearings on tax legislative proposals before the legislation embodying those proposals is transmitted from the House of Representatives. On occasion, the Senate will consider a revenue bill in the form of a Senate or "S." bill, and then await passage of a revenue "H.R." bill from the House. The Senate then will add or substitute provisions of the "S." bill as an amendment to the "H.R." bill and send the "H.R." bill back to the House of Representatives for its concurrence or for conference on the differing provisions.

E. THE HOUSE'S EXERCISE OF ITS CONSTITUTIONAL PREROGATIVE:  
"BLUE-SLIPPING"

When a Senate bill or amendment to a House bill infringes on the constitutional prerogative of the House to originate revenue measures, that infringement may be raised in the House as a matter of privilege. That privilege has also been asserted on a Senate amendment to a House amendment to a Senate bill (see 96th Congress, 1st Session, November 8, 1979, Congressional Record p. H10425).

Note that the House in its sole discretion may determine that legislation passed by the Senate infringes on its prerogative to originate revenue legislation. In the absence of such determination by the House, the Federal courts are occasionally asked to rule a certain revenue measure to be unconstitutional as not having originated in the House (see *U.S. v. Munoz-Flores*, 495 U.S. 385 (1990)).

Senate bills or amendments to non-revenue bills infringe on the House's prerogative even if they do not raise or reduce revenue. Such infringements are referred to as "revenue affecting." Thus, any import ban which could result in lost customs tariffs must originate in the House (100th Congress, 1st Session, July 30, 1987 100th Congress, 2d Session, June 16, 1988, Congressional Record p. H4356).

Offending bills and amendments are returned to the Senate through the passage in the House of a House Resolution which states that the Senate provision: "in the opinion of the House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privilege of the House and that such bill be respectfully returned to the Senate with a message communicating this resolution" (e.g., 100th Congress, 1st Session, July 30, 1987, Congressional Record p. H6808). This practice is referred to as "blue slipping" because the resolution returning the offending bill to the Senate is printed on blue paper.

In other cases, the Committee of the Whole House has passed a similar or identical House bill in lieu of a Senate bill or amendment (e.g., 91st Congress, 2d Congress, May 11, 1970, Congressional Record pp. H14951-14960). The Committee on Ways and Means has also reported bills to the House which were approved and sent to the Senate in lieu of Senate bills (e.g., 93d Congress, 1st Session, November 6, 1973, Congressional Record pp. 36006-36008). In other cases, the Senate has substituted a House bill or delayed action on its own legislation to await a proper revenue affecting bill or amendment from the House (see 95th Congress, 2d Session, September 22, 1978, Congressional Record p. H30960; January 22, 1980, Congressional Record p. S107).

Any Member may offer a resolution seeking to invoke Article I, Section 7. However, the determination that a bill violates the Origination Clause has been traditionally made by Members of the Committee on Ways and Means, and the resolution has been offered by the Chairman or another Member of the Committee on Ways and Means. Because Article I, Section 7 involves the privileges of the House, a blue-slip resolution offered by the Chairman or other Members of the Committee on Ways and Means has been typically

adopted by voice vote on the House Floor. There have been instances where the House has agreed to not deal directly with the issue<sup>1</sup> by tabling a resolution.<sup>2</sup>

#### BLUE SLIP RESOLUTIONS—98TH CONGRESS THROUGH 109TH CONGRESS CHRONOLOGICAL LIST

[Resolutions passed by the House returning to the Senate bills passed in violation of the origination clause of the United States Constitution (Clause 1, Section 7 of Article 1)]

H. Res., sponsor, and date of House passage	Description of Senate action (and related House action, if any)
107th Congress:	
H. Res. 240, Mr. Thomas September 20, 2001.	On September 13, 2001, the Senate passed H.R. 2500, "Making appropriations for the U.S. Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes" with an amendment. Contained in this legislation was a provision banning the importation of diamonds not certified as originating outside conflict zones. The proposed change in the import laws constituted a revenue measure in the constitutional sense, because it would have had a direct impact on customs revenues.
106th Congress:	
H. Res. 645, Mr. Crane Oc- tober 24, 2000.	On October 17, 2000, the Senate passed S. 1109, the Bear Protection Act of 1999. This legislation would have conserved global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera. The proposed change in the import laws constituted a revenue measure in the constitutional sense, because it would have had a direct impact on customs revenues.
H. Res. 394, Mr. Weller November 18, 1999.	On November 3, 1999, the Senate passed S. 1232, Federal Erroneous Retirement Coverage Corrections Act. This legislation would have provided that no Federal retirement plan involved in the corrections under the bill would fail to be treated as a tax-qualified retirement plan by reason of the correction, and that any fund transfers or government contributions resulting from the corrections would have no impact on the tax liability of individuals. These changes constituted a revenue measure in the constitutional sense because they would have had a direct impact on Federal revenues.
H. Res. 393, Mr. Weller November 18, 1999.	On February 24, 1999, the Senate passed S. 4, the Soldiers', Sailors', Airmen', and Marines' Bill of Rights Act of 1999. The legislation would have allowed members of the Armed Forces to participate in the Federal Thrift Savings Program and to avoid the tax consequences that would otherwise have resulted from certain contributions in excess of the limitations imposed in the Internal Revenue Code. This proposed exemption therefore constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.
H. Res. 249, Mr. Portman July 16, 1999.	On May 20, 1999, the Senate passed S. 254, the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999. The legislation would have had the effect of banning the import of large capacity ammunition feeding devices. The proposed change in the import laws constituted a revenue measure in the constitutional sense, because it would have had a direct impact on customs revenues.
105th Congress:	
H. Res. 601, Mr. Crane October 15, 1998.	On October 8, 1998, the Senate passed S. 361, the Tiger and Rhinoceros Conservation Act of 1998. This legislation would have had the effect of creating a new basis and mechanism for applying import restrictions for products intended for human consumption or application containing (or labeled as containing) any substance derived from tigers or rhinoceroses. The proposed change in the import laws constituted a revenue measure in the constitutional sense, because it would have had a direct impact on customs revenues.

<sup>1</sup>In cases where the Chairman of the Committee on Ways and Means did not believe that the bill in question violated the Origination Clause or the objection had been dealt with in another manner, resolutions offered by other Members of the House have been tabled. [See adoption of motion by Representative Rostenkowski to table H. Res. 571, 97-2, p. 22127.]

<sup>2</sup>This was an instance where the Chairman of the Committee on Ways and Means raised a question of the privilege of the House pursuant to Article I, Section 7, of the U.S. Constitution on H.R. 4516, Legislative Branch Appropriations. The motion was laid on the table.

BLUE SLIP RESOLUTIONS—98TH CONGRESS THROUGH 109TH CONGRESS CHRONOLOGICAL LIST—  
Continued

[Resolutions passed by the House returning to the Senate bills passed in violation of the origination clause of the United States Constitution (Clause 1, Section 7 of Article I)]

H. Res., sponsor, and date of House passage	Description of Senate action (and related House action, if any)
H. Res. 379, Mr. Ensign March 5, 1998.	On April 15, 1997, the Senate passed S. 104, the Nuclear Waste Policy Act of 1997. This legislation would have repealed a revenue provision and replaced it with a user fee. The revenue provision in question was a fee of 1 mill per kilowatt hour of electricity generated by nuclear power imposed by the Nuclear Waste Policy Act of 1982. The proposed user fee in the legislation would have been limited to the amount appropriated for nuclear waste disposal. The original fee was uncapped, and, in fact, because the fees collected exceeded the associated costs, it was being used as revenue to finance the Federal Government generally. Its proposed repeal, therefore, constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.
104th Congress:	
H. Res. 554, Mr. Crane September 28, 1996.	On June 30, 1996, the Senate passed H.R. 400, the Anaktuvuk Pass Land Exchange and Wilderness Redesignation Act of 1995, with an amendment. Section 204(a) of the Senate amendment would have overridden existing tax law by expanding the definition of actions not subject to Federal, State, or local taxation under the Alaska Native Claims Settlement Act. These changes constituted a revenue measure in the constitutional sense because they would have had a direct impact on Federal revenues.
H. Res. 545, Mr. Archer September 27, 1996.	On September 25, 1996, the Senate passed S. 1311, the National Physical Fitness and Sports Foundation Establishment Act. Section 2 of the bill would have waived the application of certain rules governing recognition of tax-exempt status for the foundation established under this legislation. This exemption constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.
H. Res. 402, Mr. Shaw April 16, 1996.	On January 26, 1996, the Senate passed S. 1463, to amend the Trade Act of 1974. The bill would have changed the authority and procedure for investigations by the ITC for certain domestic agricultural products. Such investigations are a predicate necessary for achieving access to desired trade remedies that the President may order, such as tariff adjustments, tariff-rate quotas, quantitative restrictions, or negotiation of trade agreements to limit imports. By creating a new basis and mechanism for import restrictions under authority granted to the President, the bill constituted a revenue measure in the constitutional sense because it would have had a direct impact on customs revenues.
H. Res. 387, Mr. Crane March 21, 1996.	On February 1, 1996, the Senate passed S. 1518, repealing the Tea Importation Act of 1897. Under existing law in 1996, it was unlawful to import substandard tea, except as provided in the HTS. Changing import restrictions constituted a revenue measure in the constitutional sense because it would have had a direct impact on customs revenues.
103d Congress:	
H. Res. 577, Mr. Gibbons October 7, 1994.	On October 3, 1994, the Senate passed S. 1216, the Crow Boundary Settlement Act of 1994. The bill would have overridden existing tax law by exempting certain payments and benefits from taxation. These exemptions constituted a revenue measure in the constitutional sense because they would have had a direct impact on Federal revenues.
H. Res. 518, Mr. Gibbons August 12, 1994.	On July 20, 1994, the Senate passed H.R. 4554, the Agriculture and Rural Development Appropriation for fiscal year 1995, with amendments. Senate amendment 83 would have provided authority for the Food and Drug Administration (FDA) to collect fees to cover the costs of regulation of products under their jurisdiction. However, these fees were not limited to covering the cost of specified regulatory activities, and would have been charged to a broad cross-section of the public (rather than been limited to those who would have benefited from the regulatory activities) to fund the cost of the FDA's activities generally. These fees constituted a revenue measure in the constitutional sense because they were not based on a direct relationship between their level and the cost of the particular government activity for which they would have been assessed, and would have had a direct impact on Federal revenues.

BLUE SLIP RESOLUTIONS—98TH CONGRESS THROUGH 109TH CONGRESS CHRONOLOGICAL LIST—  
Continued

[Resolutions passed by the House returning to the Senate bills passed in violation of the origination clause of the United States Constitution (Clause 1, Section 7 of Article I)]

H. Res., sponsor, and date of House passage	Description of Senate action (and related House action, if any)
H. Res. 487, Mr. Gibbons July 21, 1994.	On May 25, 1994, the Senate passed S. 1030, the Veterans Health Programs Improvement Act of 1994. A provision in the bill would have exempted from taxation certain payments made on behalf of participants in the Education Debt Reduction Program. This provision constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.
H. Res. 486, Mr. Gibbons July 21, 1994.	On May 29, 1994, the Senate passed S. 729, to amend the Toxic Substances Control Act. Title I of the bill included several provisions to prohibit the importation of specific categories of products which contained more than specified quantities of lead. By establishing these import restrictions, the bill constituted a revenue measure in the constitutional sense because it would have had a direct impact on customs revenues.
H. Res. 479, Mr. Rangel July 14, 1994.	On June 22, 1994, the Senate passed H.R. 4539, the Treasury, Postal Service, and General Government Appropriation for fiscal year 1995, with amendments. Senate amendment 104 would have prohibited the Treasury from using appropriations to enforce the Internal Revenue Code requirement for the use of undyed diesel fuel in recreational motorboats. This prohibition, therefore, constituted a revenue measure in the constitutional sense because it would have had a direct impact on Federal revenues.
102d Congress:	
H. Res. 373, Mr. Rostenkowski February 25, 1992.	On August 1, 1991, the Senate passed S. 884 amended, the Driftnet Moratorium Enforcement Act of 1991; This legislation would require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing. Foremost among the sanction provisions are those which impose a ban on certain imports into the United States from countries which continue to engage in driftnet fishing on the high seas after a certain date. These changes in our tariff laws constitute a revenue measure in the constitutional sense, because they would have a direct effect on customs revenues.
H. Res. 267, Mr. Rostenkowski October 31, 1991.	On February 20, 1991, the Senate passed S. 320, to reauthorize the Export Administration Act of 1979. This legislation contains several provisions which impose, or authorize the imposition of, a ban on imports into the United States. Among the provisions containing import sanctions are those relating to certain practices by Iraq, the proliferation and use of chemical and biological weapons, and the transfer of missile technology. These changes in our tariff laws constitute a revenue measure in the constitutional sense, because they would have a direct effect on customs revenues.
H. Res. 251, Mr. Russo October 22, 1991.	On July 11, 1991, the Senate passed S. 1241, the Violent Crime Act of 1991. This legislation contains several amendments to the Internal Revenue Code. Section 812(f) provides that the police corps scholarships established under the bill would not be included in gross income for tax purposes. In addition, sections 1228, 1231, and 1232 each make amendments to the Tax Code with respect to violations of certain firearms provisions. Finally, Title VII amends section 922 of Title VIII of the U.S. Code, making it illegal to transfer, import or possess assault weapons. These changes in our tariff and tax laws constitute revenue measures in the constitutional sense, because they would have an immediate impact on revenues anticipated by U.S. Customs and the Internal Revenue Services.
101st Congress:	
H. Res. 287, Mr. Cardin Nov. 9, 1989.	On August 4, 1989, the Senate passed S. 686, the Oil Pollution Liability and Compensation Act of 1989. This legislation contained a provision which would have allowed a credit against the oil spill liability tax for amounts transferred from the Trans-Alaska Pipeline Trust Fund to the Oil Spill Liability Trust Fund.
H. Res. 177, Mr. Rostenkowski June 15, 1989.	On Apr. 19, 1989, the Senate passed S. 774, the Financial Institution Reform, Recovery and Enforcement Act of 1989. This legislation would create two corporations to administer the financial assistance under the bill: the Resolution Trust Corporation and the Resolution Financing Corporation. S. 774 would have conferred tax-exempt status to these two corporations. Without these two tax provisions, these two corporations would be taxable entities under the Federal income tax.



BLUE SLIP RESOLUTIONS—98TH CONGRESS THROUGH 109TH CONGRESS CHRONOLOGICAL LIST—  
Continued

[Resolutions passed by the House returning to the Senate bills passed in violation of the origination clause of the United States Constitution (Clause 1, Section 7 of Article 1)]

H. Res., sponsor, and date of House passage	Description of Senate action (and related House action, if any)
100th Congress:	
H. Res. 235, Mr. Rostenkowski July 30, 1987.	On Mar. 30, 1987, the Senate passed S. 829, legislation which would authorize appropriations for the ITC, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1988, and for other purposes. In addition, the bill contained a provision relating to imports from the Soviet Union which amends provisions of the Tariff Act of 1930.
H. Res. 474, Mr. Rostenkowski June 16, 1988 (see also H.R. 3391).	On Oct. 6, 1987, the Senate passed S. 1748, legislation which would prohibit the importation into the United States of all products from Iran. (The House passed H.R. 3391, which included similar provisions, on Oct. 6, 1987.)
H. Res. 479, Mr. Rostenkowski June 21, 1988 (see also H.R. 2792 and H.R. 4333).	On May 13, 1987, the Senate passed S. 727, legislation which would clarify Indian treaties and Executive orders with respect to fishing rights. This legislation dealt with the tax treatment of income derived from the exercise of Indian treaty fishing rights. (The House passed H.R. 2792, which included similar provisions, on June 20, 1988, under suspension of the rules and was enacted into law as part of P.L. 100-647, H.R. 4333.)
H. Res. 544, Mr. Rostenkowski Sept. 23, 1988 (see also H.R. 1154).	On Sept. 9, 1988, the Senate passed S. 2662, the Textile and Apparel Trade Act of 1988. This legislation would impose global import quotas on textiles and footwear products.
H. Res. 552, Mr. Rostenkowski Sept. 28, 1988.	On Sept. 9, 1988, the Senate passed S. 2763, the Genocide Act of 1988. This legislation contained a ban on the importation of all oil and oil products from Iraq.
H. Res. 603, Mr. Rostenkowski Oct. 21, 1988.	On Mar. 30, 1988, the Senate passed S. 2097, the Uranium Mill Tailings Remedial Action Amendments of 1987. This legislation would establish a Federal fund to assist in the financing of reclamation and other remedial action at currently active uranium and thorium processing sites and would increase the demand for domestic uranium. The fund would be financed in part by what are called "mandatory fees" which are equal to \$22 per kilogram for uranium contained in fuel assemblies initially loaded into civilian nuclear power reactors during calendar years 1989-1993. In addition, S. 2097 would impose charges on domestic utilities that use foreign-source uranium in new fuel assemblies loaded in their nuclear reactors.
H. Res. 604, Mr. Rostenkowski Oct. 21, 1988.	On Aug. 8, 1988, the Senate passed H.R. 1315, legislation which would authorize appropriations for the Nuclear Regulatory Commission for fiscal years 1988 and 1989. Title IV of the legislation would, among other things, establish a Federal fund to assist in the financing of reclamation and other remedial action at currently active uranium and thorium processing sites and would assist the domestic uranium industry by increasing the demand for domestic uranium. The fund would be financed in part by what are called "mandatory fees" equal to \$72 per kilogram of uranium contained in fuel assemblies initially loaded into civilian nuclear power reactors on or after Jan. 1, 1988. These fees would be paid by licensees of civilian nuclear power reactors and would be in place until \$1 billion had been raised.
99th Congress:	
H. Res. 283, Mr. Rostenkowski Oct. 1, 1985.	On Sept. 26, 1985, the Senate passed S. 1712, legislation which would extend the 16-cents-per-pack cigarette excise tax rate for 45 days, through Nov. 14, 1985. (The House passed H.R. 3452, which included a similar extension, on Sept. 30, 1985.)
H. Res. 562, Mr. Rostenkowski Sept. 25, 1986.	The Senate passed S. 638, legislation to provide for the sale of Conrail to the Norfolk Southern Railroad. The legislation contained numerous provisions relating to the tax treatment of the sale of Conrail.
98th Congress:	
H. Res. 195, Mr. Rostenkowski June 17, 1983.	On Apr. 21, 1983, the Senate passed S. 144, a bill to insure the continued expansion of international market opportunities in trade, trade in services and investment for the United States, and for other purposes.

F. PREROGATIVE UNDER THE RULES OF THE HOUSE OVER "REVENUE MEASURES GENERALLY"

In the House of Representatives, tax legislation is initiated by the Committee on Ways and Means. The Committee's exclusive prerogative to report "revenue measures generally" is provided by

rule X(1)(s) of the Rules of the House of Representatives. The jurisdiction of the Committee on Ways and Means under rule X(1)(s) is protected through the exercise of rule XXI(5)(a) which states:

A bill or joint resolution carrying a tax or tariff measure may not be reported by a committee not having jurisdiction to report tax or tariff measures, and an amendment in the House or proposed by the Senate carrying a tax or tariff measure shall not be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A point of order against a tax or tariff measure in such a bill, joint resolution, or amendment thereto may be raised at any time during pendency of that measure for amendment.

Based on the precedents of the House, especially those involving Rule XXI(5)(a), the following statements can be made concerning points of order made under the rule.

1. *Timeliness.*—The point of order can be raised at any point during consideration of the bill. However, that section of the bill in which the “tax or tariff” provision lies must either have been previously read or currently open for amendment. A point of order may not be raised after the Committee of the Whole has risen and reported the bill to the House. A point of order against an amendment must be made prior to its adoption.

2. *Effect.*—If a point of order is sustained, the effect is that the provision in the bill or amendment is automatically deleted.

3. *Substance over form.*—A provision need not involve an amendment to the Internal Revenue Code or the Harmonized Tariff Schedule in order to be determined to be a “tax or tariff” provision.

4. *Revenue decreases and increases.*—A provision need not raise revenue in order to be found to be a “tax or tariff measure.” Provisions which would have the effect of decreasing revenues are also covered by the rule. Similarly, provisions which could have a revenue effect have been determined to be covered by the rule.

The following is a detailed listing of each of the occasions on which points of order have been sustained:

#### G. POINTS OF ORDER—HOUSE RULE XXI CHRONOLOGICAL LIST

*June 14, 2006*

*H.R. 5576, Transportation, Treasury, Housing and Urban Development, the Judiciary, and Related Agencies Appropriations Act, 2007*

A point of order was raised against an amendment offered by Representative Tiahrt, which would have limited funds to the IRS and prohibited its ability to provide and tax preparation software or online tools. Representative Tiahrt withdrew his amendment. [109–2, H3930]

*June 13, 2006*

*H.R. 5576, Transportation, Treasury, Housing and Urban Development, the Judiciary, and Related Agencies Appropriations Act, 2007*

A point of order was raised against Section 206 of the bill, which would have limited funds to the IRS and prohibited its ability to provide and tax preparation software or online tools. The chair ruled that the provision was in violation of Rule XXI, clause 2. The point of order was sustained, and the provision was stricken from the bill. [109–2, H3849–3850]

*May 23, 2006*

*H.R. 5384, Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2007*

A point of order was raised against an amendment offered by Representative DeLauro, which would have increased the bill's appropriation for waste and water grant programs by \$689 million and paid for this increase by reducing the size of the tax cut for those making over one million dollars. The chair ruled that the provision proposes to change existing law and constitutes legislation on an appropriations bill and, therefore, violates clause 2 of Rule XXI. The point of order was sustained, and the amendment was not in order. [109–2, H3063]

*May 19, 2006*

*H.R. 5385, Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2007*

Points of order were raised against three amendments offered by Representatives Edwards, Farr, and Obey, which would have raised taxes to offset program funding increases. The chair ruled that these provisions proposed to change existing law and constituted legislation on an appropriations bill and, therefore, violated clause 2 of Rule XXI. The points of order were sustained, and the amendments were not in order. [109–2, H2922–2931]

*June 30, 2005*

*H.R. 3058, Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006*

A point of order was raised against an amendment offered by Representative Simmons, which would have limited the use of funds to enter into, implement, or provide oversight of contracts between the Secretary of the Treasury, or his designee, and private collection agencies. Representative Simmons withdrew his amendment. [109–1, H3640]

*June 29, 2005*

*H.R. 3058, Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006*

A point of order was raised against section 218 of the bill, which would direct the Secretary of the Treasury to submit to the Committees on Appropriations a report defining currency manipulation and what actions would be construed as another nation manipulating its currency, and describing how statutory provisions addressing currency manipulation by America's trading partners contained in, and relating to, title 22 U.S.C. 5304, 5305, and 286y can be better clarified administratively to provide for improved and more predictable evaluation. The chair ruled that the provision was in violation of Rule XXI, clause 2. The point of order was sustained, and the provision was stricken from the bill. [109-1, H5422]

*June 14, 2005*

*H.R. 2862, Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006*

A point of order was raised against an amendment offered by Representative Obey, which would have increased funding for the EDA by \$53 million and paid for this increase by reducing the size of the tax cut for those making over one million dollars. The chair ruled that the provision proposes to change existing law and constitutes legislation on an appropriations bill and, therefore, violates clause 2 of Rule XXI. The point of order was sustained, and the amendment was not in order. [109-1, H4437]

*May 26, 2005*

*H.R. 2528, Military Quality of Life and Veterans Affairs Appropriations Act, 2006*

A point of order was raised against an amendment offered by Representative Obey, which would have increased the bill's appropriation for veterans medical care by \$2.6 billion and paid for this increase by reducing the size of the tax cut for those making over one million dollars. The chair ruled that the provision proposes to change existing law and constitutes legislation on an appropriations bill and, therefore, violates clause 2 of Rule XXI. The point of order was sustained, and the amendment was not in order. [109-1, H4106]

*May 19, 2005*

*H.R. 2361, Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006*

A point of order was raised against an amendment offered by Representative Obey, which would have increased the bill's appropriation for the Clean Water State Revolving Fund by \$500,000 and paid for this increase by reducing the size of the tax cut for those making over one million dollars. The chair ruled that the provision proposes to change existing law and constitutes legislation on an appropriations bill and, therefore, violates clause 2 of Rule

XXI. The point of order was sustained, and the amendment was not in order. [109–1, H3640]

*May 17, 2005*

*H.R. 2360, Department of Homeland Security Appropriations Act, 2006*

A point of order was raised against an amendment offered by Representative Obey, which would have increased the bill's appropriation for Customs and Border Protection and paid for this increase by reducing the size of the tax cut for those making over one million dollars. The chair ruled that the provision proposes to change existing law and constitutes legislation on an appropriations bill and, therefore, violates clause 2 of Rule XXI. The point of order was sustained, and the amendment was not in order. [109–1, H3398]

*September 14, 2004*

*H.R. 5025, Transportation, Treasury, and Independent Agencies Appropriations Act, 2005*

A point of order was raised against section 644 of the bill, which would have amended section 6402 of the Internal Revenue Code of 1986 by adding a new subsection that allows for the offset of federal tax refunds to collect delinquent state unemployment compensation overpayments. The chair ruled that the provision was in violation of Rule XXI, clause 2. The point of order was sustained, and the provision was stricken from the bill. [108–2, H7176]

*September 14, 2004*

*H.R. 5025, Transportation, Treasury, and Independent Agencies Appropriations Act, 2005*

A point of order was raised against section 643 of the bill, which would have amended section 453(j) of the Social Security Act to allow access to data in the National Directory of New Hires for use in collecting delinquent non-tax federal debt. The chair ruled that the provision was in violation of Rule XXI, clause 2. The point of order was sustained, and the provision was stricken from the bill. [108–2, H7176]

*September 14, 2004*

*H.R. 5025, Transportation, Treasury, and Independent Agencies Appropriations Act, 2005*

A point of order was raised against section 642 of the bill, which would have amended Title 31 of the U.S. Code to allow the Federal Government to collect debts that are more than 10 years old by withholding federal tax refunds or garnishing Social Security benefits. The chair ruled that the provision was in violation of Rule XXI, clause 2. The point of order was sustained, and the provision was stricken from the bill. [108–2, H7176]

*September 9, 2004*

*H.R. 5006, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2005*

A point of order was raised against an amendment offered by Representative Brown (OH), which would have stopped the increase of Part B Medicare premiums, effectively leaving them at their current dollar amount. The chair ruled that the provision would provide new budget authority in excess of the suballocation provided by the Appropriations Committee, and therefore violated section 302(f) of the Congressional Budget Act of 1974. The point of order was sustained, and the amendment was not in order. [108–2, H6945]

*September 8, 2004*

*H.R. 5006, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2005*

A point of order was raised against section 219(b) of the bill, which created a Medicare claims processing fee for duplicative or incorrect claims for Medicare Part A or B services. The chair ruled that the provision was in violation of Rule XXI. The point of order was conceded, sustained, and the provision was stricken from the bill. [108–2, H6836]

*June 18, 2004*

*H.R. 4567, Department of Homeland Security Appropriations Act, 2005*

A point of order was raised against an amendment offered by Representative Sherman, which would have limited the funds made available in this Act for processing the importation of any article which is the product of Iran. The chair ruled that the provision was in violation of clause 5(a) of Rule XXI. The point of order was sustained, and the amendment was not in order. [108–2, p. H4551]

*July 10, 2003*

*H.R. 2660, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004*

A point of order was raised against section 217(B) of the bill, which created a Medicare Claims Processing fee. An October 1, 2003, requirement assured a policy for providers to submit all Medicare claims electronically. Since most electronic billing systems eliminate inaccurate and duplicate claims, and because current law provided the proper small business exemption, the user fee was unnecessary. The chair ruled that the provision was in violation of Rule XXI, clause 2(b). The point of order was conceded, sustained, and the provision was stricken from the bill. [108–1, p. H6560]

*July 10, 2003*

*H.R. 2660 Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004*

A point of order was raised against an amendment offered by Representative Obey, which would have provided a 1-percentage add-on to the Federal assistance to every State for their Medicaid programs. This would have been paid for through a reduction in the size of the tax cut for persons who make more than \$1 million a year. The chair ruled that the amendment constituted legislation in violation of Rule XXI, clause 2(c), and in addition, constituted a tax measure in violation of Rule XXI, clause 5(a). The point of order was conceded and sustained. [108–1, p. H6547]

*July 23, 2003*

*H.R. 2799, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act 2004*

A point of order was raised against an amendment offered by Representative Levin, which would forbid expenditure of funds that would be used to negotiate free trade agreements that did not contain certain listed provisions, which imposed new duties that were not required by law and made the appropriations contingent upon the performance of said duties and on successful trade negotiations with other countries. The chair ruled that the provision was in violation of Rule XXI, clause 2. The point of order was sustained. [108–1, p. H7337–7339]

*September 4, 2003*

*H.R. 2989, Transportation, Treasury, and Independent Agencies Appropriations Act, 2004*

A point of order was raised against portions of section 631 of the bill, which would have amended the Trade Agreements Act of 1979. The provision exempted limitations on procurement. The chair ruled that the provision was in violation of Rule XXI, clause 2(b). The point of order was conceded, sustained and the language was stricken from the bill. [108–1, p. H7913]

*September 4, 2003*

*H.R. 2989, Transportation, Treasury, and Independent Agencies Appropriations Act, 2004*

A point of order was raised against the contents of Section 164 of the bill, which amended the Buy America requirements for transit capital purchases of steel, iron, manufactured goods, and rolling stock. The chair ruled that these provisions were in violation of Rule XXI. The point of order was conceded, sustained, and the section was stricken from the bill. [108–1, p. H7912–7913]

*September 8, 1999*

*H.R. 2684, U.S. Departments of Veterans Affairs and Housing and Urban Development Appropriations For 2000*

A point of order was raised against an amendment offered by Representative Edwards, which would have offset an increase in funding for veterans (health care by postponing the implementation of a capital gains tax cut. The chair ruled that the amendment constituted legislation in violation of Rule XXI, clause 2(c), and, in addition, constituted a tax measure in violation of Rule XXI, clause 5(a). The point of order was sustained, and the amendment ruled not in order. [106–1, p. H7923]

*September 3, 1997*

*H.R. 2159, Foreign Operations Appropriations for Fiscal Year 1998*

A point of order was raised against section 539 of the bill, which would have restricted the President's ability to issue an executive order lifting import sanctions against Yugoslavia (Serbia). The Chair ruled that since current law allowed the President to waive the application of certain sanctions, including import prohibitions which affect tariff collections, the provision in question was a tariff measure within the meaning of Rule XXI, clause 5(b). The point of order was sustained, and the provision stricken from the bill. [105–1, p. H6731]

*July 17, 1996*

*H.R. 3756, Treasury, Postal Service, and General Government Appropriations Act of 1997*

A point of order was raised against an amendment which prohibited the use of funds by the United States Customs Service to take any action that allowed certain imports into the United States from the People's Republic of China. The point of order was sustained. [104–2, p. H7708]

*May 9, 1995*

*H.R. 1361, Coast Guard Authorization*

A point of order was raised against an amendment which increased certain fees for large foreign-flag cruise ships. The Chair ruled that by increasing the fees charged by the Coast Guard for inspecting large foreign-flag cruise ships by an unspecified amount in order to offset a decrease in fees for other vessels, the amendment attenuated the relationship between the amount of the fee and the cost of the particular government activity for which it was assessed. Therefore the increased fee qualified as a tax or tariff within the meaning of Rule XXI, clause 5(b). The point of order was sustained, and the amendment ruled out of order. [104–1, p. H4593]



*June 15, 1994*

*H.R. 4539, Treasury, Postal Service, and General Government Appropriation for Fiscal Year 1995*

A point of order was raised against section 527 of the bill, which would have amended the HTS to create a new tariff classification. The new classification would have changed the rate of duty on the import of certain fabrics intended for use in the manufacture of hot air balloons, thus having direct impact on customs revenues. The point of order was conceded and sustained, and the provision was stricken from the bill. [103–2, p. H4531]

*September 16, 1992*

*H.R. 5231, The National Competitiveness Act of 1992*

A point of order was raised against an amendment offered by Representative Walker. The bill was reported solely from the Committee on Science and Technology and amended the Internal Revenue Code to provide, inter alia, changes in the tax treatment of capital gains.

The Chair sustained the point of order without elaboration. [102–2 p. H8621]

*October 23, 1990*

*H.R. 5021, Department of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act, 1991*

A point of order was raised against amendment 139 which increased the rate of fees paid to the Securities and Exchange Commission at the time of filing a registration statement. The Chair ruled that since the amendment provided that the increased level of fees would be deposited in the Treasury, the fee involved was in reality a tax and the revenues were to be used to defray general governmental costs. The point of order was conceded and sustained. [101–2, p. H11412]

*July 13, 1990*

*H.R. 5241, Treasury, Postal Service and General Government Appropriations Act of 1991*

A point of order was raised against section 528 which prohibited that “no funds appropriated” would be used to impose or assess any tax under section 4181 of the Internal Revenue Code relating to the excise tax on the manufacture of firearms. The point of order was conceded and sustained. [101–2, p. H4692]

*July 13, 1990*

*H.R. 5241, Treasury, Postal Service and General Government Appropriations Act of 1991*

A point of order was raised against section 524 which prohibited the Internal Revenue Service from enforcing rules governing the antidiscrimination rules of the exclusion for employer provided health-care plans (section 89 of the Internal Revenue Code). The point of order was conceded and sustained. [101–2, p. H4692]

October 5, 1989

*H.R. 3299, Omnibus Budget Reconciliation Act of 1989*

A point of order was raised against section 3201 which imposed fees on the filing of certain forms required to be filed annually in connection with maintaining pension and benefit plans. The point of order was sustained with the Chair ruling that the revenue raised funded “general government activity.” [101–1, p. H6662]

October 4, 1989

*H.R. 3299, Omnibus Budget Reconciliation Act of 1989*

A point of order was raised against section 3156 which imposed a “Termination Fee.” Under the provision of the bill, an employer who terminated a pension plan in a standard termination was required to pay a \$200–per-participant fee to the Pension Benefit Guaranty Corporation (PBGC), the Federal insurance agency established to insure defined benefit pension plans against insolvency. The point of order was conceded and sustained. [101–1, p. H6621]

October 4, 1989

*H.R. 3299, Omnibus Budget Reconciliation Act of 1989*

A point of order was raised against section 3131(b) which exempted multi-employer pension plans from the full funding limits of the Internal Revenue Code, section 412(c)(7). This provision directly amended the Internal Revenue Code to allow the deductibility of contributions to a multi-employer pension plan in excess of the full funding limit. The point of order was conceded and sustained. [101–1, p. H6622]

October 4, 1989

*H.R. 3299, Omnibus Budget Reconciliation Act of 1989*

A point of order was raised against section 7002 which imposed an annual fee of \$1 per acre on the holder of Outer Continental Shelf leases. This fee has been designated to offset the costs of ocean related environmental research, assessment, and protection programs. The point of order was sustained with the Chair stating that “a provision raising revenue to finance general government functions improperly characterized as a tax within the jurisdiction of Clause 5(b) of Rule XXI. [101–1, p. H6610]

October 4, 1989

*H.R. 3299, Omnibus Budget Reconciliation Act of 1989*

A point of order was raised against section 7002 which imposed a fee of \$20 per passenger on vessels engaged in U.S. cruise trade or which offer off-shore gambling. The proceeds of this fee were to be deposited in both the Harbor Maintenance Trust Fund and the Treasury’s general fund. The point of order was conceded and sustained. [101–1, p. H6620]

*September 30, 1988*

*H.R. 4637, Conference Agreement to accompany the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1989*

A point of order was raised against the motion to concur in the Senate amendment No. 176 which provided that S. 2848 (Sanctions Against Iraqi Chemical Weapons Use Act), be added to the bill. The point of order was conceded and sustained. [100-2, p. H9236]

*June 25, 1987*

*H.R. 3545, Budget Reconciliation Act of 1987*

A point of order was raised against the section of the bill providing that "all earnings and distributions" from the Enjebi Community Trust Fund, "shall not be subject to any form of Federal, State, or local taxation." The point of order was conceded and sustained. [100-1, p. H5539-40]

*August 1, 1986*

*H.R. 5294, Appropriations, Treasury, Postal Service and General Government Appropriations, 1987*

A point of order was raised against section 103 which denied funds to the Internal Revenue Service to impose vesting requirements for qualified pension funds more stringent than 4/40. As a result, legally collectible taxes on employer contributions to such plans would be indefinitely deferred. The point of order was conceded and sustained. [99-2, p. H5311]

*August 1, 1986*

*H.R. 5294, Appropriations, Treasury, Postal Service and General Government Appropriations, 1987*

A point of order was raised against section 3 which prohibited the use of funds to implement regulations issued by the Department of the Treasury to implement section 274(d) of the Internal Revenue Code relating to the duty imposed on taxpayers to substantiate deductibility of certain expenses relating to travel, gifts, and entertainment.

The Chair sustained the point of order stating that a limitation otherwise in order under Clause 2(c), of House Rule XXI which "effectively and inherently either preclude[s] the IRS from collecting revenues otherwise due to be [owed] under provision of the Internal Revenue Code or require[s] the collection of revenue not legally due and owing constitutes a tax provision within the meaning of Rule XXI, Clause 5(b)."

The Chair also noted that when the point of order was raised that under the rule the point of order against the provision could be raised at any point during the consideration of the bill. [99-2, p. H5310]

*October 24, 1986*

*H.R. 3500, Budget Reconciliation Act of 1985*

A point of order was raised against section 3113. The provision in the reconciliation bill reported from the Budget Committee con-

tained a recommendation from the Committee on Education and Labor to exclude certain interest on obligations to Student Loan Marketing Association from Application of Internal Revenue Code (IRC), section 265 which denies a deduction for certain expenses and interest relating to the production of tax-exempt income. The point of order was sustained. [99–1, p. H5310]

*October 24, 1985*

*H.R. 3500, Budget Reconciliation Act of 1985*

A point of order was raised against section 6701 which had been reported from the Committee on the Budget containing a recommendation of the Committee on Merchant Marine and Fisheries. Section 6701 expanded tax benefits available to ship owners through the “capital construction fund” (section 7518 of the Internal Revenue Code), by permitting repatriation of foreign-source income to avoid U.S. taxes and expanding the definition of vessels eligible to establish such tax-exempt funds. [99–1, p. H9189]

*July 26, 1985*

*H.R. 3036, Appropriations, Treasury, Postal Service, and General Government Appropriation, 1986*

A point of order was raised against section 106 which prohibited the use of funds to implement or enforce regulations imposing or collecting a tax on the interest deferral from entrance or accommodation fees paid by elderly residents of continuing care facilities (section 7872 of the Internal Revenue Code). The Chair sustained the point of order against the provision as a tax provision within the meaning of House Rule XXI, Clause 5(b). [99–1, p. H6418]

*July 11, 1985*

*H.R. 1555, International Security and Development Act of 1985*

A point of order was raised against section 1208 which denied trade benefits to Afghanistan, provided for the denial of most favored nation status to Afghanistan and denied trade credits to Afghanistan. The point of order was conceded and sustained. [99–1, p. H5489]

*June 4, 1985*

*H.R. 1460, Anti-Apartheid Act of 1985*

A point of order was raised against an amendment to prohibit the entry of South African Krugerrands or gold coins into the customs territory of the United States unless uniform 5 percent fee were paid. The point of order was sustained on the grounds that the fee was equivalent to a tariff uniform charge imposed at ports of entry with proceeds deposited in the Treasury. [99–1, p. H3762]

September 12, 1984

*H.R. 5798, conference report to accompany the Appropriations, Treasury, Postal Service, Executive Office of the President and certain independent agencies Appropriation, 1985*

A point of order was raised against a Senate amendment, No. 92 which amended the existing customs law under the Tariff Act of 1930 with respect to seizures and forfeitures of property by the Customs Service. The point of order was conceded and sustained. [98-2, p. H9407]

September 12, 1984

*H.R. 5798, conference report to accompany the Appropriations, Treasury, Postal Service, Executive Office of the President and certain independent agencies Appropriation, 1985*

A point of order was raised against a Senate amendment, No. 26 which amended the tariff schedule of the United States (TSUS) to provide duty-free importation of a telescope for the University of Arizona. The point of order was conceded and sustained. [98-2, p. H9396]

September 12, 1984

*H.R. 5798, conference report to accompany the Appropriations, Treasury, Postal Service, Executive Office of the President and certain independent agencies Appropriation, 1985*

A point of order was raised against a Senate amendment, No. 24 which provided that "none of the funds appropriated by this act or any other act" shall be used to impose or assess the manufacturer's excise tax on sporting goods. The point of order specifically stated that the term "tax" and "tariff" under House Rule XXI, Clause 5(b), included provisions such as these contained in the amendment which would result less revenue spent than under the operation of existing law. The point of order was conceded and sustained. [98-2, p. H9395-9396]

October 27, 1983

*H.R. 4139, conference report to accompany the Appropriations Treasury, Postal Service, Executive Office of the President and certain independent agencies Appropriation, 1984*

The Chair sustained a point of order against section 511 which would have prohibited the Customs Service from enforcing a provision of law permitting agricultural products to enter the United States duty-free under the CBI. The Chair ruled that the effect of the provision was to cause duties on certain imports to be imposed where none is required and to require collections of revenue contrary to existing tariff laws and that, as a result, section 511 was a tariff provision rather than a limitation of appropriated funds. [98-1, p. H8717]

September 21, 1983

*H.R. 1036, Community Renewal Employment Act*

The Chair sustained a point of order against a motion to recommit a bill to a committee without jurisdiction over revenue measures (the Committee on Education and Labor), and to report the bill back to the House with tax provisions relating to "enterprise zones." The motion was ruled to violate House Rule XVI, Clause 7, and House Rule XXI Clause 5(b). [98-1, p. H7244]

H. RESTRICTIONS ON "FEDERAL INCOME TAX RATE INCREASES"

House Rule XXI, clause 5(b) and (c) prohibit retroactive Federal income tax rate increases and require a supermajority [3/5] vote for any bill containing a prospective Federal income tax rate increase. The wording of the rule and its legislative history make it clear that the rule applies only to increases in specific statutory rates in the Internal Revenue Code and not to provisions merely because they raise revenue or otherwise modify the income tax base.

**Appendix II. Historical Note**

The Committee on Ways and Means was first established as an ad hoc committee in the first session of the First Congress, on July 24, 1789. Representative Fitzsimons, from Pennsylvania, in commenting on the report of a select committee concerning appropriations and revenues, pointed out the desirability of having a committee to review the expenditure needs of the Government and the resources available, as follows:

The finances of America have frequently been mentioned in this House as being very inadequate to the demands. I have never been of a different opinion, and do believe that the funds of this country, if properly drawn into operation, will be equal to every claim. The estimate of supplies necessary for the current year appears very great from a report on your table, and which report has found its way into the public newspapers. I said, on a former occasion, and I repeat it now, notwithstanding what is set forth in the estimate, that a revenue of \$3 million in specie, will enable us to provide every supply necessary to support the Government, and pay the interest and installments on the foreign and domestic debt. If we wish to have more particular information on these points, we ought to appoint a Committee on Ways and Means, to whom, among other things, the estimate of supplies may be referred, and this ought to be done speedily, if we mean to do it this session.

After discussion, the motion was agreed to and a committee consisting of one Member from each State (North Carolina and Rhode Island had not yet ratified the Constitution) was appointed as follows: Messrs. Fitzsimons (Pennsylvania), Vining (Delaware), Livermore (New Hampshire), Cadwalader (New Jersey), Laurance (New York), Wadsworth (Connecticut), Jackson (Georgia), Gerry (Massachusetts), Smith (Maryland), Smith (South Carolina), and Madison (Virginia).

While there does not appear to be any direct relationship, it is interesting to note that the appointment of this ad hoc committee came within a few weeks after the House, in Committee of the Whole, had spent a good part of the months of April, May, and

June in wrestling with the details involved in writing bills “for laying a duty on goods, wares, and merchandises imported into the United States” and for imposing duties on tonnage. Tariffs, of course, became a prime revenue source for the new government.

However, the results of this ad hoc committee are not clear. It existed for a period of only 8 weeks, being dissolved on September 17, 1789, with the following order:

That the Committee on Ways and Means be discharged from further proceeding on the business referred to them, and that it be referred to the Secretary of the Treasury to report thereon.

It has also been suggested by one student that the Committee was dissolved because Alexander Hamilton had become Secretary of the newly created U.S. Department of the Treasury, and thus it was presumed that the U.S. Department of the Treasury could provide the necessary machinery for developing information which would be needed. During the next 6 years there was no Committee on Ways and Means or any other standing committee for the examination of estimates. Rather, ad hoc committees were appointed to draw up particular pieces of legislation on the basis of decisions made in the Committee of the Whole House. On November 13, 1794, a rule was adopted providing that:

All proceedings touching appropriations of money shall be first moved and discussed in a Committee on the Whole House.

In the next Congress historians have suggested that the House was determined to curtail Secretary Hamilton’s influence by first setting up a Committee on Ways and Means and requiring that Committee to submit a report on appropriations and revenue measures before consideration in the Committee of the Whole House. It was also said that this Committee on Ways and Means was put on a more or less standing basis since such a committee appeared at some point in every Congress until it was made a permanent committee.

In the first session of the 7th Congress, Tuesday, December 8, 1801, a resolution was adopted as follows:

*Resolved*, That a standing Committee on Ways and Means be appointed, whose duty it shall be to take into consideration all such reports of the Treasury Department, and all such propositions, relative to the revenue as may be referred to them by the House; to inquire into the state of the public debt, of the revenue, and of the expenditures; and to report, from time to time, their opinion thereon.

The following Members were appointed: Messrs. Randolph (Virginia), Griswold (Connecticut), Smith (Vermont), Bayard (Delaware), Smilie (Pennsylvania), Read (Massachusetts), Nicholson (Maryland), Van Rensselaer (New York), Dickson (Tennessee).

On Thursday, January 7, 1802, the House agreed to standing rules which, among other things, provided for standing committees, including the Committee on Ways and Means. The relevant part of the rules in this respect read as follows:

A Committee on Ways and Means, to consist of seven Members;

\* \* \* \* \*

It shall be the duty of the said Committee on Ways and Means to take into consideration all such reports of the U.S. Department of the Treasury, and all such propositions relative to the revenue, as may be referred to them by the House; to inquire into the state of the public debt, of the revenue, and of the expenditures, and to report, from time to time, their opinion thereon; to examine into the state of the several public departments, and particularly into the laws making appropriations of moneys, and to report whether the moneys have been disbursed conformably with such laws; and also to report, from time to time, such provisions and arrangements, as may be necessary to add to the economy of the departments, and the accountability of their officers.

It has been said that the jurisdiction of the Committee was so broad in the early 19th century that one historian described it as follows:

It seemed like an Atlas bearing upon its shoulders all the business of the House.

The jurisdiction of the Committee remained essentially the same until 1865 when the control over appropriations was transferred to a newly created Committee on Appropriations and another part of its jurisdiction was given to a newly created Committee on Banking and Currency. This action followed rather extended discussion in the House, too lengthy to review here.

During the course of that discussion, however, the following observations are of some historical interest. Representative Cox, who was handling the motion to divide the Committee, gave a very picturesque discussion of the many varied and heavy duties which had fallen on the Committee over the years. He observed:

And yet, sir, powerful as the Committee is constituted, even their powers of endurance, physical and mental, are not adequate to the great duty which has been imposed by the emergencies of this historic time. It is an old adage, that "whoso wanteth rest will also want of might"; and even an Olympian would faint and flag if the burden of Atlas is not relieved by the broad shoulders of Hercules.

He continued:

I might give here a detailed statement of the amount of business thrown upon that Committee since the commencement of the war. But I prefer to append it to my remarks. Whereas before the war we scarcely expended more than \$70 million a year, now, during the five sessions of the last two Congresses, there has been an average appropriation of at least \$800 million per session. The statement which I hold in my hand shows that during the first and extra session of the 37th Congress there came appropriation bills from the Committee on Ways and Means amounting to \$226,691,457.99. I say nothing now of the loan and other fiscal bills emanating from that Committee.  
\* \* \* During the present session I suppose it would be a fair estimate to take the appropriations of the last session of the 37th Congress, say \$900 million.

These are appropriation bills alone. They are stupendous, and but poorly symbolize the immense labors which



the internal revenue, tariff, and loan bills imposed on the Committee. \* \* \* And this business of appropriations is perhaps not one-half of the labor of the Committee. There are various and important matters upon which they act, but upon which they never report. Their duties comprehend all the varied interests of the United States; every element and branch of industry, and every dollar or dime of value. They are connected with taxation, tariffs, banking, loan bills, and ramify to every fiber of the body-politic. All the springs of wealth and labor are more or less influenced by the action of this Committee. Their responsibility is immense, and their control almost imperial over the necessities, comforts, homes, hopes, and destinies of the people. All the values of the United States, which in the census of 1860 (page 194) amount to nearly \$17 billion, or, to be exact, \$16,159,616,068, are affected by the action of that Committee, even before their action is approved by the House. Those values fluctuate whenever the head of the Committee on Ways and Means rises in his place and proposes a measure. The price of every article we use trembles when he proposes a gold bill or a loan bill, or any bill to tax directly or indirectly. \* \* \*

\* \* \* the interests connected with these economical questions are of all questions those most momentous for the future. Parties, statesmanship, union, stability, all depend upon the manner in which these questions are dealt with.

Representative Morrill (who was subsequently appointed chairman of the Committee on Ways and Means in the succeeding Congress, and who still later became chairman of the Senate Committee on Finance after he became a Senator) observed as follows:

I am entirely indifferent as to the disposition which shall be made of this subject by the House. So far as I am myself concerned, I have never sought any position upon any committee from the present or any other Speaker of the House, and probably never shall. I have no disposition to press myself hereafter for any position. In relation to the proposed division of the Committee on Ways and Means, the only doubt that I have is the one expressed by my colleague on that Committee, Representative Stevens, in regard to the separation of the questions of revenue from those relating to appropriations. In ordinary times of peace I should deem it almost indispensable and entirely within their power that this Committee should have the control of both subjects, in order that they might make both ends meet, that is, to provide a sufficient revenue for the expenditures. That reason applies now with greater force; but it may be that the Committee is overworked. It is true that for the last 3 or 4 years the labors of the Committee on Ways and Means have been incessant, they have labored not only days but nights; not only weekends but Sundays. If gentlemen suppose that the Committee have permitted some appropriations to be reported which should

not have been permitted they little understand how much has been resisted.

The influence the Committee came not only from the nature of its jurisdiction but also because for many years the chairman of the Committee was also ad hoc majority Floor leader of the House.

When the revolt against Speaker Cannon took place, and the Speaker's powers to appoint the Members of committees were curtailed, the Majority Members on the Committee on Ways and Means became the Committee on Committees. Subsequently, this power was disbursed to the respective party caucuses, beginning in the 94th Congress.

Throughout its history, many famous Americans have served on the Committee on Ways and Means. The long and distinguished list includes 8 Presidents of the United States, 8 Vice Presidents, 4 Justices of the Supreme Court, 34 Cabinet members, and quite interestingly, 21 Speakers of the House of Representatives. This latter figure represents nearly one-half of the 51 Speakers who have served since 1789 through the end of the 108th Congress. See the alphabetical list which follows for names.

*Major positions held by former members of the Committee on Ways and Means*

President of the United States:

George H. W. Bush, Texas  
 Millard Fillmore, New York  
 James A. Garfield, Ohio  
 Andrew Jackson, Tennessee  
 James Madison, Virginia  
 William McKinley, Jr., Ohio  
 James K. Polk, Tennessee  
 John Tyler, Virginia

Vice President of the United States:

John C. Breckinridge, Kentucky  
 George H. W. Bush, Texas  
 Charles Curtis, Kansas  
 Millard Fillmore, New York  
 John N. Garner, Texas  
 Elbridge Gerry, Massachusetts  
 Richard M. Johnson, Kentucky  
 John Tyler, Virginia

Justice of the Supreme Court:

Philip P. Barbour, Virginia  
 Joseph McKenna, California  
 John McKinley, Alabama  
 Fred M. Vinson, Kentucky (Chief Justice)

Speaker of the House of Representatives:

Nathaniel P. Banks, Massachusetts  
 Philip P. Barbour, Virginia  
 James G. Blaine, Maine  
 John G. Carlisle, Kentucky  
 Langdon Cheves, South Carolina  
 James B. (Champ) Clark, Missouri  
 Howell Cobb, Georgia  
 Charles F. Crisp, Georgia  
 John N. Garner, Texas

John W. Jones, Virginia  
 Michael C. Kerr, Indiana  
 Nicholas Longworth, Ohio  
 John W. McCormack, Massachusetts  
 James K. Polk, Tennessee  
 Henry T. Rainey, Illinois  
 Samuel J. Randall, Pennsylvania  
 Thomas B. Reed, Maine  
 Theodore Sedgwick, Massachusetts  
 Andrew Stevenson, Virginia  
 John W. Taylor, New York  
 Robert C. Winthrop, Massachusetts  
 Cabinet Member:  
   Secretary of State:  
     James G. Blaine, Maine  
     William J. Bryan, Nebraska  
     Cordell Hull, Tennessee <sup>14</sup>  
     Louis McLean, Delaware  
     John Sherman, Ohio  
   Secretary of the Treasury:  
     George W. Campbell, Tennessee  
     John G. Carlisle, Kentucky  
     Howell Cobb, Georgia  
     Thomas Corwin, Ohio  
     Charles Foster, Ohio  
     Albert Gallatin, Pennsylvania  
     Samuel D. Ingham, Pennsylvania  
     Louis McLean, Delaware  
     Ogden L. Mills, New York  
     John Sherman, Ohio  
     Philip F. Thomas, Maryland  
     Fred M. Vinson, Kentucky  
   Attorney General:  
     James P. McGranery, Pennsylvania  
     Joseph McKenna, California  
     A. Mitchell Palmer, Pennsylvania  
     Caesar A. Rodney, Delaware  
   Postmaster General:  
     Samuel D. Hubbard, Connecticut  
     Cave Johnson, Tennessee  
     Horace Maynard, Tennessee  
     William L. Wilson, West Virginia  
   Secretary of the Navy:  
     Thomas W. Gilder, Virginia  
     Hilary A. Herbert, Alabama  
     Victor H. Metcalf, California  
     Claude A. Swanson, Virginia  
   Secretary of the Interior:  
     Rogers C. B. Morton, Maryland  
     Jacob Thompson, Mississippi  
   Secretary of Commerce and Labor:  
     Victor H. Metcalf, California  
   Secretary of Commerce:

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<sup>14</sup> Recipient of Nobel Peace Prize in 1945.

Rogers C. B. Morton, Maryland  
 Secretary of Agriculture:  
 Clinton P. Anderson, New Mexico

### **Appendix III. Statistical Review of the Activities of the Committee on Ways and Means**

#### **A. NUMBER OF BILLS AND RESOLUTIONS REFERRED TO THE COMMITTEE**

As of the close of the 109th Congress on December 9, 2006, there had been referred to the Committee a total of 2,152 bills, representing 26.4 percent of all the public bills introduced in the House of Representatives.

The following table gives a more complete statistical review since 1967.

TABLE 1. NUMBER OF BILLS AND RESOLUTIONS REFERRED TO THE COMMITTEE, 90TH THROUGH 109TH CONGRESSES

	Introduced in House	Referred to Committee on Ways and Means	Percentage
90th Congress .....	24,227	3,806	15.7
91st Congress .....	23,575	3,442	14.6
92nd Congress .....	20,458	3,157	15.4
93rd Congress .....	21,096	3,370	16
94th Congress .....	19,371	3,747	19.3
95th Congress .....	17,800	3,922	22
96th Congress .....	10,196	2,337	22.9
97th Congress .....	9,909	2,377	26.4
98th Congress .....	8,104	1,904	23.5
99th Congress .....	7,522	1,568	20.8
100th Congress .....	7,043	1,419	22.1
101st Congress .....	7,640	1,737	22.7
102nd Congress .....	7,771	1,972	25.4
103rd Congress .....	6,645	1,496	22.5
104th Congress .....	5,329	1,071	20.1
105th Congress .....	5,976	1,509	25.2
106th Congress .....	6,942	1,762	25.3
107th Congress .....	7,029	1,941	27.6
108th Congress .....	6,953	1,541	22.2
109th Congress .....	8,152	2,152	26.4

#### **B. PUBLIC HEARINGS**

In the course of the 109th Congress, the full Committee on Ways and Means held public hearings on a total of 26 days, including 15 days in the first session and 11 days in the second session. Many of these hearings dealt with broad subject matter including the President's fiscal year 2005 and 2006 budget proposals, health and Social Security issues, and President Bush's trade agenda. The full Committee reviewed programs under the Committee's jurisdiction for waste, fraud, and abuse, and focused on such issues as tax reform, and the implementation of free trade agreements with Bahrain, Oman, Peru, and the Dominican Republic.

The following table specifies the statistical data on the number of days and witnesses published on each of the subjects covered by public hearings in the full Committee during the 109th Congress.

TABLE 2. PUBLIC HEARINGS CONDUCTED BY THE FULL COMMITTEE ON WAYS AND MEANS

Subject and date	Number of	
	Days	Witnesses
2005:		
President's Fiscal Year 2006 Budget with U.S. Department of the Treasury Secretary John Snow, February 8 .....	1	1
President's Fiscal Year 2006 Budget with OMB Director Bolten, February 9 .....	1	1
President's Fiscal Year 2006 Budget for the U.S. Department of Health and Human Services, February 17 .....	1	1
Future of Social Security, March 9 .....	1	3
President's Fiscal Year 2006 Budget for the U.S. Department of Labor, March 16 .....	1	1
United States-China Economic Relations and China's Role in the World Economy, April 14 .....	1	11
Overview of the Tax-Exempt Sector, April 20 .....	1	7
Implementation of the Dominican Republic-Central America Free Trade Agreement (DR-CAFTA), April 21 .....	1	12
Alternatives to Strengthen Social Security, May 12 .....	1	8
Retirement Policy Challenges and Opportunities of our Aging Society, May 19 .....	1	6
Tax-Exempt Hospital Sector, May 26 .....	1	9
Tax Reform, June 8 .....	1	5
United States-Japan Economic and Trade Relations, September 28 .....	1	10
Implementation of the United States-Bahrain Free Trade Agreement, September 29 .....	1	8
Review of Credit Union Tax Exemption, November 3 .....	1	12
Total for 2005 .....	15	95
2006:		
President's Fiscal Year 2007 Budget with OMB Director Joshua Bolten, February 8 .....	1	1
President's Fiscal Year 2007 Budget for the U.S. Department of Health and Human Services, February 8 .....	1	1
President Bush's Trade Agenda, February 15 .....	1	1
President's Fiscal Year 2007 Budget with U.S. Department of the Treasury Secretary John Snow, February 15 .....	1	1
Implementation of the United States-Oman Free Trade Agreement, April 5 .....	1	6
Implementation of the Medicare Drug Benefit, June 14 .....	1	8
Health Savings Accounts, June 28 .....	1	7
Implementation of the United States-Peru Trade Promotion Agreement, July 12 .....	1	8
Hearing to Review Outcomes of 1996 Welfare Reforms, July 19 .....	1	8
Impacts of Border Security and Immigration on Ways and Means Programs, July 26 .....	1	7
Patient Safety and Quality Issues in End Stage Renal Disease Treatment, December 6 ....	1	5
Total for 2006 .....	11	53
Total for both sessions .....	26	148

The six Subcommittees of the Committee on Ways and Means were also very active in conducting public hearings during the 109th Congress. The following table specifies in detail the number of days and witnesses published by each of the Subcommittees.

TABLE 3.—PUBLIC HEARINGS CONDUCTED BY THE SUBCOMMITTEES OF THE COMMITTEE ON WAYS AND MEANS

Subject and date	Number of—	
	Days	Witnesses
SUBCOMMITTEE ON TRADE		
2005:		
Future of the World Trade Organization, March 17 .....	1	5
2006:		
Customs Budget Authorizations and Other Issues, July 25 .....	1	8
Total .....	2	13

TABLE 3.—PUBLIC HEARINGS CONDUCTED BY THE SUBCOMMITTEES OF THE COMMITTEE ON WAYS AND MEANS—Continued

Subject and date	Number of—	
	Days	Witnesses
SUBCOMMITTEE ON OVERSIGHT		
2005:		
2005 Tax Return Filing Season and the IRS Budget for Fiscal Year 2006, April 14 .....	1	8
Hearing to Review the Tax Deduction for Façade Easements, June 23 .....	1	5
Hearing to Examine Tax Fraud Committed by Prison Inmates, June 29 .....	1	8
Fraud in Income Tax Return Preparation, July 20 .....	1	8
To Review the Response by Charities to Hurricane Katrina, December 13 .....	1	9
2006:		
Second in Series on Social Security Number High-Risk Issues, February 16—Jointly with Subcommittee on Social Security .....	1	5
2006 Tax Return Filing Season and the IRS Budget for Fiscal Year 2007, April 6 .....	1	8
Charities and Employment Taxes: Are Charities in the Combined Federal Campaign Meeting their Employment Tax Responsibilities? May 5 .....	1	3
Total .....	8	54
SUBCOMMITTEE ON HEALTH		
2005:		
Medicare Payments to Physicians, February 10 .....	1	6
Physician-Owned Specialty Hospitals, March 8 .....	1	7
Measuring Physician Quality and Efficiency of Care for Medicare Beneficiaries, March 15 .....	1	4
Managing the Use of Imaging Services, March 17 .....	1	5
Long Term Care, April 19 .....	1	6
Post-Acute Care, June 16 .....	1	9
Value-Based Purchasing for Physicians under Medicare, July 21 .....	1	4
Health Care Information Technology, July 27 .....	1	6
The Medicare Value-Based Purchasing for Physicians Act, September 29 .....	1	5
Gainsharing, October 7 .....	1	7
Field Hearing on Competition in the FEHB Program, December 2 .....	1	6
2006:		
MedPAC's March Report on Medicare Payment Policies, March 1 .....	1	5
Long-Term Acute Care Hospitals, March 15 .....	1	5
Fourth in Series on Health Care Information Technology, April 6 .....	1	7
Implementation of the Medicare Drug Benefit, May 3 and May 4 .....	2	7
Medicare Reimbursement of Physician-Administered Drugs, July 13 .....	1	9
Price Transparency, July 18 .....	1	5
Emergency Care, July 27 .....	1	5
Total .....	19	108
SUBCOMMITTEE ON SOCIAL SECURITY		
2005:		
First in a Series on Protecting and Strengthening Social Security, May 17 .....	1	8
Second in a Series on Protecting and Strengthening Social Security, May 24 .....	1	7
Third in a Series on Protecting and Strengthening Social Security, May 26 .....	1	20
Fourth in a Series on Protecting and Strengthening Social Security, June 9 .....	1	8
Fifth in a Series on Protecting and Strengthening Social Security, June 14 .....	1	6
Sixth in a Series on Protecting and Strengthening Social Security, June 16 .....	1	8
Seventh in a Series on Protecting and Strengthening Social Security, June 21 .....	1	8
Eighth in a Series on Protecting and Strengthening Social Security, June 23 .....	1	8
Commissioner of Social Security's Proposed Improvements to the Disability Determination Process, September 27—Jointly with Subcommittee on Human Resources .....	1	7
First in Series on Social Security Number High-Risk Issues, November 11 .....	1	2
2006:		
Second in Series on Social Security Number High-Risk Issues, February 16—Jointly with Subcommittee on Oversight .....	1	5
Third in Series on Social Security Number High-Risk Issues, March 2 .....	1	3
Fourth in Series on Social Security Number High-Risk Issues, March 16 .....	1	6
Fifth in Series on Social Security Number High-Risk Issues, March 30 .....	1	9
Social Security Service Delivery Challenges, May 11 .....	1	1
Social Security's Improved Disability Determination Process, June 15 .....	1	8

TABLE 3.—PUBLIC HEARINGS CONDUCTED BY THE SUBCOMMITTEES OF THE COMMITTEE ON WAYS AND MEANS—Continued

Subject and date	Number of—	
	Days	Witnesses
Total .....	16	114
SUBCOMMITTEE ON HUMAN RESOURCES		
2005:		
Welfare Reform Reauthorization Proposals, February 10 .....	1	12
Protections for Foster Children Enrolled in Clinical Trials, May 18 .....	1	6
Federal Foster Care Financing, June 9 .....	1	4
Implementation of the SUTA Dumping Prevention Act of 2004, June 14 .....	1	6
Welfare and Work Data, July 14 .....	1	1
Commissioner of Social Security's Proposed Improvements to the Disability Determination Process, September 27—Jointly with Subcommittee on Social Security .....	1	7
2006:		
Hearing Regarding New Research on Unemployment Benefit Recipients, March 15 .....	1	1
The Use of Technology to Improve Public Benefit Programs, April 5 .....	1	5
Unemployment Compensation Aspects of U.S. Department of Labor Fiscal Year 2007 Budget, May 4 .....	1	7
Hearing to Review Proposals to Improve Child Protective Services, May 23 .....	1	13
Total .....	10	62
SUBCOMMITTEE ON SELECT REVENUE MEASURES		
2005:		
The President's Proposal for Single-Employer Pension Funding Reform, March 8 .....	1	6
Tax Credits for Electricity Production from Renewable Sources, May 24 .....	1	7
Funding Rules for Multiemployer Defined Benefit Plans in H.R. 2830, the "Pension Protection Act of 2005", June 28 .....	1	5
Member Proposals for Tax Reform, July 28 .....	1	7
Member Proposals on Tax Issues Introduced in the 109th Congress, November 16 .....	1	20
2006:		
The Use of Tax-Preferred Bond Financing, March 16 .....	1	7
Corporate Tax Reform, May 9 .....	1	8
The Impact of International Tax Reform on U.S. Competitiveness, June 22 .....	1	6
Issues Relating to the Patenting of Tax Advice, July 13 .....	1	5
Member Proposals on Tax Issues Introduced in the 109th Congress, September 26 .....	1	21
Total .....	10	92

As the foregoing statistics indicate, during the 109th Congress the full Committee and its six Subcommittees held public hearings aggregating a grand total of 89 days, during which time 579 witnesses testified. There was one field hearing, held by the Subcommittee on Health in Oak Creek, Wisconsin.

In addition, written comments were printed after having been requested and received by the Full Committee on H.R. 3376, the "Tax Technical Corrections Act of 2005", and H.R. 6264, the "Tax Technical Corrections Act of 2006"; and the Subcommittee on Trade on Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.

### C. MARKUP SESSIONS

With respect to markup or business sessions during the 109th Congress, the full Committee and its six Subcommittees were also very actively engaged. The full Committee held such sessions on 21 working days, usually both morning and afternoon sessions, and the Subcommittees an aggregate of 8 working days, making a grand total of 29 working days of markup or business sessions for

the full Committee and its Subcommittees during the 109th Congress.

#### D. NUMBER AND FINAL STATUS OF BILLS REPORTED FROM THE COMMITTEE ON WAYS AND MEANS IN THE 109TH CONGRESS

During the 109th Congress, the Committee reported to the House a total of 13 bills; 10 favorably, 2 adversely, and 1 without recommendation. There were 69 bills containing provisions within the purview of the Committee that were passed by the House; 44 were enacted into law. This is not indicative of the total number of bills considered by the Committee. When the Committee meets on major tax, tariff, Social Security, health, unemployment compensation, or human resources matters, it often considers a broad subject rather than individual, specific bills. In consideration of a broad matter, the Committee makes every attempt to review all pending pertinent bills encompassed within that subject. As many as several hundred bills, for instance, may translate into a broad subject that is then reported by the Committee. Therefore, it is typically the practice of the Committee to report bills on a major subject rather than on several minor subjects.

### Appendix IV. Chairmen of the Committee on Ways and Means and Membership of the Committee From the 1st Through the 109th Congresses

#### A. CHAIRMEN OF THE COMMITTEE ON WAYS AND MEANS, 1789 TO PRESENT

Name	State	Party	Term of service
Thomas Fitzsimons .....	Pennsylvania .....	Federalist .....	1789.
William L. Smith .....	South Carolina .....	Federalist .....	1794 to 1797.
Robert G. Harper .....	South Carolina .....	Federalist .....	1797 to 1800.
Roger Griswold .....	Connecticut .....	Federalist .....	1800 to 1801.
John Randolph .....	Virginia .....	Jeffersonian Republican .....	1801 to 1805, 1827.
Joseph Clay .....	Pennsylvania .....	Jeffersonian Republican .....	1805 to 1807.
George W. Campbell .....	Tennessee .....	Jeffersonian Republican .....	1807 to 1809.
John W. Eppes .....	Virginia .....	Jeffersonian Republican .....	1809 to 1811.
Ezekiel Bacon .....	Massachusetts .....	Jeffersonian Republican .....	1811 to 1812.
Langdon Cheves .....	South Carolina .....	Jeffersonian Republican .....	1812 to 1813.
John W. Eppes .....	Virginia .....	Jeffersonian Republican .....	1813 to 1815.
William Lowndes .....	South Carolina .....	Jeffersonian Republican .....	1815 to 1818.
Samuel Smith .....	Maryland .....	Jeffersonian Republican .....	1818 to 1822.
Louis McLane .....	Delaware .....	Jeffersonian Republican .....	1822 to 1827.
George McDuffie .....	South Carolina .....	Democrat .....	1827 to 1832.
Gulian C. Verplanck .....	New York .....	Democrat .....	1832 to 1833.
James K. Polk .....	Tennessee .....	Democrat .....	1833 to 1835.
C. C. Cambreleng .....	New York .....	Democrat .....	1835 to 1839.
John W. Jones .....	Virginia .....	Democrat .....	1839 to 1841.
Millard Fillmore .....	New York .....	Whig .....	1841 to 1843.
James Iver McKay .....	North Carolina .....	Democrat .....	1843 to 1847.
Samuel F. Vinton .....	Ohio .....	Whig .....	1847 to 1849.
Thomas H. Bayly .....	Virginia .....	Democrat .....	1849 to 1851.
George S. Houston .....	Alabama .....	Democrat .....	1851 to 1855.
Lewis D. Campbell .....	Ohio .....	Republican .....	1855 to 1857.
J. Glancy Jones .....	Pennsylvania .....	Democrat .....	1857 to 1858.
John S. Phelps .....	Missouri .....	Democrat .....	1858 to 1859.
John Sherman .....	Ohio .....	Republican .....	1859 to 1861.
Thaddeus Stevens .....	Pennsylvania .....	Republican .....	1861 to 1865.
Justin S. Morrill .....	Vermont .....	Republican .....	1865 to 1867.
Robert C. Schenck .....	Ohio .....	Republican .....	1867 to 1871.
Samuel D. Hooper .....	Massachusetts .....	Republican .....	1871.
Henry L. Dawes .....	Massachusetts .....	Republican .....	1871 to 1875.



Name	State	Party	Term of service
William R. Morrison .....	Illinois .....	Democrat .....	1875 to 1877.
Fernando Wood .....	New York .....	Democrat .....	1877 to 1881.
John R. Tucker .....	Virginia .....	Democrat .....	1881.
William D. Kelley .....	Pennsylvania .....	Republican .....	1881 to 1883.
William R. Morrison .....	Illinois .....	Democrat .....	1883 to 1887.
Roger Q. Mills .....	Texas .....	Democrat .....	1887 to 1889.
William McKinley, Jr. ....	Ohio .....	Republican .....	1889 to 1891.
William M. Springer .....	Illinois .....	Democrat .....	1891 to 1893.
William L. Wilson .....	West Virginia .....	Democrat .....	1893 to 1895.
Nelson Dingley, Jr. ....	Maine .....	Republican .....	1895 to 1899.
Sereno E. Payne .....	New York .....	Republican .....	1899 to 1911.
Oscar W. Underwood .....	Alabama .....	Democrat .....	1911 to 1915.
Claude Kitchin .....	North Carolina .....	Democrat .....	1915 to 1919.
Joseph W. Fordney .....	Michigan .....	Republican .....	1919 to 1923.
William R. Green .....	Iowa .....	Republican .....	1923 to 1928.
Willis C. Hawley .....	Oregon .....	Republican .....	1929 to 1931.
James W. Collier .....	Mississippi .....	Democrat .....	1931 to 1933.
Robert L. Doughton .....	North Carolina .....	Democrat .....	1933 to 1947, 1949 to 1953.
Harold Knutson .....	Minnesota .....	Republican .....	1947 to 1949.
Daniel A. Reed .....	New York .....	Republican .....	1953 to 1955.
Jere Cooper .....	Tennessee .....	Democrat .....	1955 to 1957.
Wilbur D. Mills .....	Arkansas .....	Democrat .....	1957 to 1975.
Al Ullman .....	Oregon .....	Democrat .....	1975 to 1981.
Dan Rostenkowski .....	Illinois .....	Democrat .....	1981 to 1994.
Bill Archer .....	Texas .....	Republican .....	1995 to 2001.
William M. Thomas .....	California .....	Republican .....	2001 to 2007.

## B. TABLES SHOWING PAST MEMBERSHIP OF THE COMMITTEE

### 1. MEMBERS OF THE COMMITTEE ON WAYS AND MEANS FROM THE 1ST THROUGH THE 109TH CONGRESS, BY STATE

[Beginning with the 104th Congress, Intra-Congress Committee Membership changes are footnoted]

Member	Congress(es)
Alabama:	
John McKinley .....	23
David Hubbard .....	26
Dixon H. Lewis .....	27–28
George S. Houston .....	29–30, 32–33
James F. Dowdell .....	35
Hilary A. Herbert .....	48
Joseph Wheeler .....	53–55
Oscar W. Underwood .....	56, 59–63
Ronnie G. Flippo .....	98–101
Arizona:	
J.D. Hayworth .....	105–109
Arkansas:	
James K. Jones .....	48
Clifton R. Breckinridge .....	49–51, 53
William A. Oldfield .....	64–70
Heartsill Ragon .....	70–73
William J. Driver .....	72–
Claude A. Fuller .....	73–75
Wilbur D. Mills .....	77–94
Jim Guy Tucker, Jr .....	95
Beryl Anthony, Jr .....	97–102
California:	
Joseph McKenna .....	51–52
Victor H. Metcalf .....	57–58
James C. Needham .....	58–62
William E. Evans .....	73
Frank H. Buck .....	74–77

Member	Congress(es)
Bertrand W. Gearhart .....	76–80
Cecil R. King .....	78–79, 81–90
James B. Utt .....	83, 86–91
James C. Corman .....	90–96
Jerry L. Pettis .....	91–94
William M. Ketchum .....	94–95
Fortney Pete Stark .....	94–
John H. Rousselot .....	95–97
Robert T. Matsui .....	97–108 <sup>4</sup>
William M. Thomas .....	98–109
Wally Herger .....	103–
Xavier Becerra .....	105–
Mike Thompson .....	109–
Devin Nunes .....	109– <sup>6</sup>
Colorado:	
Robert W. Bonyng .....	60
Charles B. Timberlake .....	66–72
John A. Carroll .....	81
Donald G. Brotzman .....	92–93
George H. “Hank” Brown .....	100–101
Scott McInnis .....	106–108
Bob Beauprez .....	109
Connecticut:	
Jeremiah Wadsworth .....	1
Uriah Tracy .....	3
James Hillhouse .....	4
Nathaniel Smith .....	4–5
Joshua Coit .....	5
Roger Griswold .....	5–8
John Davenport .....	8
Jonathan O. Moseley .....	9, 14, 16
Benjamin Tallmadge .....	10–11
Timothy Pitkin .....	12–13, 15
Ralph I. Ingersoll .....	21–22
Samuel D. Hubbard .....	30
James Phelps .....	45–46
Charles A. Russell .....	54–57
Ebenezer J. Hill .....	58–62, 64–65
John Q. Tilson .....	66–68
Antoni N. Sadlak .....	83–85
William R. Cotter .....	94–97
Barbara B. Kennelly .....	98–105
Nancy L. Johnson .....	101–109
John B. Larson .....	109–
Delaware:	
John Vining .....	1
Henry Latimer .....	3
John Patten .....	4
James A. Bayard, Sr .....	5, 7
Caesar A. Rodney .....	8
Louis McLane .....	16–19
Florida:	
A. S. Herlong, Jr .....	84–90
Sam M. Gibbons .....	91–104
L. A. (Skip) Bafalis .....	94–97
E. Clay Shaw, Jr .....	100–109
Karen L. Thurman .....	105–107
Mark Foley .....	104–109 <sup>8</sup>
Georgia:	
James Jackson .....	1
Abraham Baldwin .....	3–5
Benjamin Taliaferro .....	6
John Milledge .....	7
David Meriwether .....	8–9
William W. Bibb .....	12–13
Joel Abbott .....	15
Joel Crawford .....	15–16

Member	Congress(es)
Wiley Thompson .....	17–18
George R. Gilmer .....	20
Richard H. Wilde .....	22–23
George W. Owens .....	24–25
Charles E. Haynes .....	25
Mark A. Cooper .....	26
Absalom H. Chappell .....	28
Seaborn Jones .....	29
Robert Toombs .....	30–31
Alexander H. Stephens .....	30–31, 33
Marshall J. Wellborn .....	31
Howell Cobb .....	4
Martin J. Crawford .....	35–36
Benjamin H. Hill .....	44
Henry R. Harris .....	45, 49
William H. Felton .....	46
Emory Speer .....	47
James H. Blount .....	48
Henry G. Turner .....	50–54
Charles F. Crisp .....	54
James M. Griggs .....	60–61
William G. Brantley .....	61–62
Charles R. Crisp .....	64–72
Albert S. Camp .....	78–83
Phillip M. Landrum .....	89–94
Ed Jenkins .....	95–102
Wyche Fowler, Jr. ....	96–99
John Lewis .....	103–
Mac Collins .....	104–108
John Linder .....	109–
Hawaii:	
Cecil (Cec) Heftel .....	96–99
Illinois:	
Daniel P. Cook .....	19
John A. McClernand .....	37
John Wentworth .....	39
John A. Logan .....	40
Samuel S. Marshall .....	41
Horatio C. Burchard .....	42–45
William R. Morrison .....	44, 46–49
William M. Springer .....	52
Albert J. Hopkins .....	52–57
Henry S. Boutell .....	58–61
Henry T. Rainey .....	62–66, 68–72
John A. Sterling .....	65
Ira C. Copley .....	66–67
Carl R. Chindblom .....	68–72
Chester C. Thompson .....	74–75
Raymond S. McKeough .....	76–77
Charles S. Dewey .....	78
Thomas J. O'Brien .....	79, 81–88
Noah M. Mason .....	80–87
Harold R. Collier .....	88–93
Dan Rostenkowski .....	88–103
Abner J. Mikva .....	94–96
Philip M. Crane .....	94–108
Marty Russo .....	96–102
Mel Reynolds .....	103
Jerry Weller .....	105–
Rahm Emanuel .....	109–
Indiana:	
David Wallace .....	27
Cyrus L. Dunham .....	32
William E. Niblack .....	40, 43
Godlove S. Orth .....	41
Michael C. Kerr .....	42
Thomas M. Browne .....	48–50

Member	Congress(es)
William D. Bynum .....	50, 53
Benjamin F. Shively .....	52
George W. Steele .....	54–57
James E. Watson .....	58–60
Edgar D. Crumpacker .....	60–61
Lincoln Dixon .....	62–65
Harry C. Canfield .....	71–72
John W. Boehne, Jr. ....	73–77
Robert A. Grant .....	80
Andy Jacobs, Jr. ....	94–104
Chris Chocola .....	109
Iowa:	
John A. Kasson .....	38, 43, 47–48
William B. Allison .....	39–41
John H. Gear .....	51, 53
Jonathan P. Dolliver .....	54–56
William R. Green .....	63–70
C. William Ramseyer .....	70–71
Otha D. Wearin .....	75
Lloyd Thurston .....	75
Thomas E. Martin .....	80–83
Fred Grandy .....	102–103
Jim Nussle .....	104–109
Kansas:	
Dudley C. Haskell .....	47
Chester I. Long .....	56–57
Charles Curtis .....	58–59
William A. Calderhead .....	60–61
Victor Murdock .....	63
Guy T. Helvering .....	64–65
Frank Carlson .....	76–79
Martha E. Keys .....	94–95
Kentucky:	
Alexander D. Orr .....	3
Christopher Greenup .....	4
Thomas T. Davis .....	5
John Boyle .....	8
Richard M. Johnson .....	11–12
Thomas Montgomery .....	13
David Trimble .....	15–16
Nathan Gaither .....	22
John Pope .....	25
Thomas F. Marshall .....	27
Garrett Davis .....	28
Charles S. Morehead .....	30–31
John C. Breckinridge .....	33
Robert Mallory .....	38
James B. Beck .....	42–43
Henry Watterson .....	44
John G. Carlisle .....	46–47, 51
Joseph C.S. Blackburn .....	48
William C.P. Breckinridge .....	49–50
Alexander B. Montgomery .....	52–53
Walter Evans .....	54–55
Ollie M. James .....	62
Augustus O. Stanley .....	63
Frederick M. Vinson .....	72–75
Noble J. Gregory .....	78–85
John C. Watts .....	86–92
Jim Bunning .....	102–105
Ron Lewis .....	106–
Louisiana:	
Thomas B. Robertson .....	14
William L. Brent .....	19–20
Walter H. Overton .....	21
Lionel A. Sheldon .....	43
Randall L. Gibson .....	45–46

Member	Congress(es)
Charles J. Boatner .....	54
Samuel M. Robertson .....	55–59
Robert F. Broussard .....	61
Whitmell P. Martin .....	65–70
Paul H. Maloney .....	76, 78–79
Thomas Hale Boggs, Sr .....	81–91
Joe D. Waggonner, Jr .....	92–95
W. Henson Moore III .....	96–99
William J. Jefferson .....	<sup>7</sup> 103, 105–109
Jim McCreary .....	103–
Jimmy Hayes .....	<sup>1</sup> 104
Maine:	
Peleg Sprague .....	19–20
Francis O.J. Smith .....	24
George Evans .....	26
Israel Washburn, Jr .....	36
James G. Blaine .....	44
William P. Frye .....	46
Thomas B. Reed .....	48–50, 52–53
Nelson Dingley, Jr .....	51, 54–55
Daniel J. McGillicuddy .....	64
Maryland:	
William Smith .....	1
Gabriel Christie .....	3
William Vans Murray .....	4
William Hindman .....	4–5
William Craik .....	5
Joseph H. Nicholson .....	6–9
Nicholas R. Moore .....	8
Roger Nelson .....	9
John Montgomery .....	10–11
Alexander McKim .....	13
Stevenson Archer .....	13
Samuel Smith .....	14–17
Isaac McKim .....	18, 23–25
Henry W. Davis .....	34–36
Phillip F. Thomas .....	44
David J. Lewis .....	72–75
Rogers C.B. Morton .....	91–92
Benjamin L. Cardin .....	101–109
Massachusetts:	
Elbridge Gerry .....	1
Fisher Ames .....	3
Theodore Sedgwick .....	4
Theophilus Bradbury .....	4
Harrison Gray Otis .....	5–6
Samuel Sewall .....	5
Isaac Parker .....	5
Bailey Bartlett .....	6
Nathan Read .....	7
Seth Hastings .....	8
Josiah Quincy .....	9
Ezekiel Bacon .....	11–12
Ebenezer Seaver .....	11
Henry Shaw .....	16
Henry W. Dwight .....	19–21
Benjamin Gorham .....	23
Abbott Lawrence .....	24, 26
Richard Fletcher .....	25
George N. Briggs .....	25
Leverett Saltonstall .....	26
Robert C. Winthrop .....	29
Charles Hudson .....	30
George Ashmun .....	31
William Appleton .....	32–33, 37
Alexander De Witt .....	34
Nathaniel P. Banks .....	35, 45

Member	Congress(es)
Samuel Hooper .....	37–41
Henry L. Dawes .....	42–43
Chester W. Chapin .....	44
William A. Russell .....	47–48
Moses T. Stevens .....	52–53
Samuel W. McCall .....	56–62
Andrew J. Peters .....	62–63
Augustus P. Gardner .....	63–65
John J. Mitchell .....	63
Allen T. Treadway .....	65–78
Peter F. Tague .....	67–68
John W. McCormack .....	72–76
Arthur D. Healey .....	77
Charles L. Gifford .....	79–80
Angier L. Goodwin .....	80, 82–83
James A. Burke .....	87–95
James M. Shannon .....	96–98
Brian J. Donnelly .....	99–102
Richard E. Neal .....	103–
Michigan:	
William A. Howard .....	34–36
Austin Blair .....	41
Henry Waldron .....	43
Omar D. Conger .....	46
Jay A. Hubbell .....	47
William C. Maybury .....	49
Julius C. Burrows .....	50–53
Justin R. Whiting .....	52–53
William A. Smith .....	59
Joseph W. Fordney .....	60–67
James C. McLaughlin .....	68–72
Roy O. Woodruff .....	73–82
John D. Dingell .....	74–84
Victor A. Knox .....	83, 86–88
Thaddeus M. Machrowicz .....	84–87
Martha W. Griffiths .....	87–93
Charles E. Chamberlain .....	91–93
Richard F. Vander Veen .....	93–94
Guy Vander Jagt .....	94–102
William M. Brodhead .....	95–97
Sander M. Levin .....	100–
Dave Camp .....	103–
Minnesota:	
Mark H. Dunnell .....	46–47
James A. Tawney .....	54–58
James T. McCleary .....	59
Winfield S. Hammond .....	62–63
Sydney Anderson .....	63
Harold Knutson .....	73–80
Eugene J. McCarthy .....	84–85
Joseph E. Karth .....	92–94
Bill Frenzel .....	94–101
Jim Ramstad .....	104–
Mississippi:	
Jacob Thompson .....	31
John Sharp Williams .....	58–59
James W. Collier .....	63–72
Aaron Lane Ford .....	77
Missouri:	
James S. Green .....	31
John S. Phelps .....	32–37
Henry T. Blow .....	38
John Hogan .....	39
Gustavus A. Finkelburg .....	42
John C. Tarsney .....	53–54
Seth W. Cobb .....	54
Champ Clark .....	58–61

Member	Congress(es)
Dorsey W. Shackelford .....	62–63
Clement C. Dickinson .....	63–66, 68–70, 72–73
Charles L. Faust .....	69–70
Richard M. Duncan .....	74–77
Thomas B. Curtis .....	83–90
Frank M. Karsten .....	84–90
Richard A. Gephardt .....	95–101
Mel Hancock .....	103–104
Kenny Hulshof .....	105–
Montana:	
Lee W. Metcalf .....	86
James F. Battin .....	89–91
Nebraska:	
William J. Bryan .....	52–53
Charles H. Sloan .....	63–65
Ashton C. Shallenberger .....	73
Carl T. Curtis .....	79–83
Hal Daub .....	99–100
Peter Hoagland .....	103
Jon Christensen .....	104–105
Nevada:	
Francis G. Newlands .....	56–57
John Ensign .....	104–105
New Hampshire:	
Samuel Livermore .....	1
Nicholas Gilman .....	3–4
Abiel Foster .....	5
Nathaniel A. Haven .....	11
Henry Hubbard .....	23
Charles G. Atherton .....	25–27
Moses Norris, Jr .....	28–29
Harry Hibbard .....	31–33
Judd A. Gregg .....	99–100
New Jersey:	
Lambert Cadwalader .....	1
Elias Boudinot .....	3
Isaac Smith .....	4
Thomas Sinnickson .....	5
James H. Imlay .....	6
William Coxe, Jr .....	13
John L.N. Stratton .....	37
William Hughes .....	62
Isaac Bacharach .....	66–74
Donald H. McLean .....	76–78
Robert W. Kean .....	78–85
Henry Helstoski .....	94
Frank J. Guarini .....	96–102
Dick Zimmer .....	104
New Mexico:	
Clinton P. Anderson .....	79
New York:	
John Laurance .....	1
John Watts .....	3
Ezekiel Gilbert .....	4
James Cochran .....	5
Hezekiah L. Hosmer .....	5
Jonas Platt .....	6
Killian K. Van Rensselaer .....	7
Joshua Sands .....	8
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1. Appointed January 25, 1996.

2. Appointed January 25, 1996.

3. Appointed July 10, 1995.

4. Reelected to the 109th Congress; died January 1, 2005.

5. Resigned April 29, 2005.

6. Appointed May 5, 2005.  
 7. Pursuant to H. Res. 872, removed June 16, 2006.  
 8. Resigned September 29, 2006.

## 2. COMMITTEE MEMBERSHIP, 109TH CONGRESS

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<sup>1</sup> Resigned April 29, 2005.

<sup>2</sup> Pursuant to H. Res. 872, removed June 16, 2006.

<sup>3</sup> Resigned September 29, 2006.

<sup>4</sup> Appointed May 5, 2005.

